REFORM OF THE UNEMPLOYMENT COMPENSATION PROGRAM

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION

OF THE

COMMITTEE ON WAYS AND MEANS HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

SEPTEMBER 15, 1988

Serial 100-83

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PRINTING OFFICE

90-967 WASHINGTON : 1989

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

H781-34

COMMITTEE ON WAYS AND MEANS

DAN ROSTENKOWSKI, Illinois, *Chairman*

SAM M. GIBBONS, Florida
J.J. PICKLE, Texas
CHARLES B. RANGEL, New York
FORTNEY PETE STARK, California
ANDY JACOBS, JR., Indiana
HAROLD FORD, Tennessee
ED JENKINS, Georgia
RICHARD A. GEPHARDT, Missouri
THOMAS J. DOWNEY, New York
FRANK J. GUARINI, New Jersey
MARTY RUSSO, Illinois
DON J. PEASE, Ohio
ROBERT T. MATSUI, California
BERYL ANTHONY, JR., Arkansas
RONNIE G. FLIPPO, Alabama
BYRON L. DORGAN, North Dakota
BARBARA B. KENNELLY, Connecticut
BRIAN J. DONNELLY, Massachusetts
WILLIAM J. COYNE, Pennsylvania
MICHAEL A. ANDREWS, Texas
SANDER M. LEVIN, Michigan
JIM MOODY, Wisconsin

BILL ARCHER, Texas
GUY VANDER JAGT, Michigan
PHILIP M. CRANE, Illinois
BILL FRENZEL, Minnesota
DICK SCHULZE, Pennsylvania
BILL GRADISON, Ohio
WILLIAM M. THOMAS, California
RAYMOND J. McGRATH, New York
HAL DAUB, Nebraska
JUDD GREGG, New Hampshire
HANK BROWN, Colorado
ROD CHANDLER, Washington
E. CLAY SHAW, JR., Florida

ROBERT J. LEONARD, *Chief Counsel*
M. KENNETH BOWLER, *Staff Director*
A.L. SINGLETON, *Minority Chief of Staff*

SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION

HAROLD FORD, Tennessee, *Chairman*

THOMAS J. DOWNEY, New York,
Acting Chairman
DON J. PEASE, Ohio
ROBERT T. MATSUI, California
BARBARA B. KENNELLY, Connecticut
BRIAN J. DONNELLY, Massachusetts
MICHAEL A. ANDREWS, Texas

HANK BROWN, Colorado
BILL FRENZEL, Minnesota
BILL GRADISON, Ohio
E. CLAY SHAW, JR., Florida

CONTENTS

Page

Press release of Thursday, August 18, 1988, announcing the hearing 2

WITNESSES

U.S. Department of Labor, Employment and Training Administration, Mary Ann Wyrsch, Director, Unemployment Insurance Service; and James Manning and Steven Wandner, Unemployment Insurance Service 5
Congressional Research Service, Library of Congress, James R. Storey, specialist in social legislation, Education and Public Welfare Division 21
American Federation of Labor and Congress of Industrial Organizations, Bert Seidman and James Ellenberger 52
American Federation of State, County and Municipal Employees, AFL–CIO, Charles Hughes and Charles M. Loveless 94
Avrutis, Raymond, Washington, DC 101
Brown, William R., Council of State Chambers of Commerce 48
Council of State Chambers of Commerce, Allen E. Owen and William R. Brown 48
Ellenberger, James, American Federation of Labor and Congress of Industrial Organizations 52
Freeman, Richard G., Interstate Conference of Employment Security Agencies, Inc., and Iowa Department of Employment Services 86
Hedges, Carol, presenting statement of Alicia Smith, National Governors' Association 63
Hughes, Charles, Local 372, American Federation of State, County and Municipal Employees, AFL–CIO 94
Interstate Conference of Employment Security Agencies, Inc., Richard G. Freeman 86
Iowa Department of Employment Services, Richard G. Freeman 86
Loveless, Charles M., American Federation of State, County and Municipal Employees, AFL–CIO 94
National Commission on Unemployment Compensation:
James M. Rosbrow 38
Bert Seidman 52
National Governors' Association, Carol Hedges presenting statement of Alicia Smith 63
Owen, Allen E., Council of State Chambers of Commerce, and WestPoint Pepperell, Inc 48
Rosbrow, James M., National Commission on Unemployment Compensation 38
Seidman, Bert, American Federation of Labor and Congress of Industrial Organizations, and National Commission on Unemployment Compensation 52
Smith, Alicia. (See National Governors' Association.)
WestPoint Pepperell, Inc., Allen E. Owen 48

SUBMISSIONS FOR THE RECORD

Illinois, State of, Hon. James R. Thompson, Governor, statement 106
International Association of Personnel in Employment Security, Maryann T. Polaski, letter and attachment 109
International Union, United Automobile, Aerospace & Agricultural Implement Workers of America–UAW, Dick Warden, letter 113
New Jersey Department of Labor, James A. Ware, letter 117
New York State Department of Labor, Thomas F. Hartnett, letter and statement 119

Page

Stark, Hon. Fortney Pete, a Representative in Congress from the State of California, statement 122
Sugarman, Stephen D., University of California, School of Law, letter and attachment 123

REFORM OF THE UNEMPLOYMENT COMPENSATION PROGRAM

THURSDAY, SEPTEMBER 15, 1988

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON PUBLIC ASSISTANCE
AND UNEMPLOYMENT COMPENSATION,
Washington, DC.

The subcommittee met, pursuant to notice, at 1:02 p.m., in room B-318, Rayburn House Office Building, Hon. Thomas J. Downey (acting chairman of the subcommittee) presiding.

[The news release announcing the hearing follows:]

FOR IMMEDIATE RELEASE
THURSDAY, AUGUST 18, 1988

PR #17
SUBCOMMITTEE ON PUBLIC ASSISTANCE
AND UNEMPLOYMENT COMPENSATION
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1721

THE HONORABLE THOMAS J. DOWNEY (D., N.Y.), ACTING CHAIRMAN, SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCES A HEARING ON REFORM OF THE UNEMPLOYMENT COMPENSATION PROGRAM TO BE HELD ON THURSDAY, SEPTEMBER 15, 1988

The Honorable Thomas J. Downey (D., N.Y.), Acting Chairman of the Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, U.S. House of Representatives, today announced the Subcommittee will conduct a public hearing on the need to reform the Federal-State Unemployment Compensation (UC) system on Thursday, September 15, 1988, in room B-318 Rayburn House Office Building, beginning at 1:00 p.m.

In announcing this hearing, Acting Chairman Downey said, "Despite the outstanding report of the National Commission on Unemployment Compensation in 1980, many of its recommendations were ignored. In fact, policies were adopted that were the opposite of the recommendations. For example, witnesses at our last hearing testified that many States cut benefits and increased taxes when the system should have increased benefits and imposed low taxes. Although this hurt employers and unemployed workers at the time when they needed help, it was done because many State unemployment programs were insolvent. Now that unemployment is relatively low and the financial condition of the system is improved, it is time to consider reforms before another crisis occurs."

At this hearing, the Subcommittee will reexamine the recommendations made in the July 1980 final report by the National Commission on Unemployment Compensation. In particular, witnesses will be expected to comment on Commission recommendations that have not been enacted into law, and on whether they remain appropriate. These recommendations deal with financing of benefits, financing of administration, promoting efficient administration, Federal benefit standards, Federal eligibility standards, benefits for the long-term unemployed, extended benefits during periods of high unemployment and in areas of high unemployment, and the role of the unemployment trust fund in the unified budget. In addition, the Subcommittee will take testimony on other proposals that witnesses believe Congress should consider. On December 14, 1987, the Subcommittee held a hearing dealing with specific unemployment compensation issues related to funding, coverage, extended benefits, benefit adequacy, and alternative uses of funds.

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD:

Individuals and organizations interested in presenting oral testimony before the Subcommittee must submit their requests to be heard by telephone to Harriett Lawler or Diane Kirkland [(202) 225-1721] no later than close of business, Tuesday, September 6, 1988. The telephone request must be followed by a formal written request to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. The Subcommittee staff will notify by telephone those scheduled to appear as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee [(202) 225-1025].

It is urged that persons and organizations having a common position make every effort to designate one spokesperson to represent them in order for the Subcommittee to hear as many points of view as possible. Time for oral presentations will be strictly limited with the understanding that a more detailed statement may be included in the printed record of the hearing. This process will afford more time for Members to question witnesses. In addition, witnesses may be grouped as panelists with strict time limitations for each panelist.

In order to assure the most productive use of the limited amount of time available to question witnesses, all witnesses scheduled to appear before the Subcommittee are required to submit 75 copies of their prepared statements to the Subcommittee office, B-317 Rayburn House Office Building, at least 24 hours in advance of their scheduled appearance. Failure to comply with this requirement may result in the witness being denied the opportunity to testify in person.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Persons wishing to submit a written statement for the printed record of the hearing should submit at least six (6) copies of their statements by the close of business, Thursday, September 22, 1988, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements for the record of the printed hearing wish to have their statements distributed to the press and interested public, they may deliver 75 additional copies for this purpose to room B-317 Rayburn House Office Building on the date of the hearing.

SEE FORMATTING REQUIREMENTS BELOW:

COMMITTEE ON WAYS AND MEANS FORMATTING REQUIREMENTS FOR PRINTING OF HEARING STATEMENTS, WRITTEN COMMENTS AND EXHIBITS

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will **not** be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.
4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and public during the course of a public hearing, may be submitted in other forms.

Acting Chairman DOWNEY. This meeting will come to order.

Today the subcommittee calls the second of two hearings on unemployment compensation reform. Almost a year ago we held our first hearing and examined the issues related to funding, coverage, extended benefits, benefit adequacy, and alternative uses of funds. The topic of today's hearing is more general. But the subcommittee will hear testimony on a few remaining specific issues.

I am concerned that many good recommendations of the 1980 Commission on Unemployment Compensation were ignored, as Congress struggled with the financial problems of the system. I hope we can determine whether any of these recommendations are still pertinent today.

Also, we will hear testimony on two studies: first, the Department of Labor will report on its study of why so few of the unemployed receive unemployment compensation today; and second, the Congressional Research Service will summarize the results of their report on the unemployment compensation system, which the subcommittee released today. This will be followed by a panel focusing on the 1980 commission recommendations, and a panel dealing with some specific remaining issues such as administrative funding and coverage of nonprofessional employees of educational institutions.

The Acting Chair of the subcommittee recognizes the gentleman from Ohio for his opening statement.

Mr. PEASE. Well, I appreciate the gentleman from New York recognizing the gentleman from Ohio. I would like to commend the acting chairman for scheduling the hearing.

With the end of the 100th Congress approaching, and the committee trying to finish its work on technical corrections, textiles and welfare reform, it would have been easy to put this hearing off.

The Federal-State partnership that workers depend on to tide them over periods of unemployment was designed more than half a century ago. Despite the myriad changes since that time in the way that people work, our unemployment compensation system is fundamentally the same.

The fact is that unemployment does not mean the same thing to a worker, and to his or her family today, as it did to a worker in 1935.

Back then, if a foundry of a mill or a mine had to lay off workers, unemployment compensation could usually keep the family solvent until a worker was called back or found a job in another foundry, mill or mine.

Today, when an entire industry can wither away because of a technological breakthrough halfway around the world, unemployment is not such a simple matter.

And so, Mr. Chairman, I want to commend you for this hearing. And also, yourself and Mr. Brown for commissioning the CRS study we have before us today.

Your guidelines reflect the concerns about the program that have been brought before the subcommittee in recent years.

Based on a brief review of the completed study, it looks to me as if we have a valuable new resource that will help Congress toward the long overdue reform of the unemployment insurance system.

I look forward to the discussion this afternoon, and I again thank you for your indulgence.

Acting Chairman DOWNEY. Thank you, Don.

The committee will first hear from the Department of Labor: Mary Ann Wyrsch, Director, Unemployment Insurance Service, Employment and Training Administration.

Did I pronounce your last name correctly?

STATEMENT OF MARY ANN WYRSCH, DIRECTOR, UNEMPLOYMENT INSURANCE SERVICE, EMPLOYMENT AND TRAINING ADMINISTRATION, U.S. DEPARTMENT OF LABOR, ACCOMPANIED BY JAMES MANNING AND STEVEN WANDNER, UNEMPLOYMENT INSURANCE SERVICE

Ms. WYRSCH. Yes, you did.

Acting Chairman DOWNEY. Blind luck, I assure you.

If you would summarize your statement, it will be placed in the record in its entirety.

Ms. WYRSCH. Thank you. I will submit my formal statement to you for the record. And I would like to briefly summarize my remarks.

First of all, let me note that I am accompanied by, on my right, James Manning of the Unemployment Insurance Service; and on my left, Steven Wandner of the Unemployment Insurance Service.

You have asked us to address the smaller fraction of the unemployed receiving unemployment insurance today as compared with the previous history of the program.

We are now able to discuss the findings of a recently completed study on this issue, a study which was referenced in testimony before this subcommittee last year. I am going to submit a copy of this draft final report for the record.

The study focused on the decline in the unemployment claims ratio that has occurred between the 1970s and the 1980s. It examined the long term decline in this measure from the 1940s to the 1980s, but since the 1940s to 1970s change could be explained by changes in composition of the labor force, the focus was on the change not explained by these factors that occurred between the 1970s and the 1980s.

The primary focus of our study was on the regular State program, although the study did not ignore the extended benefits program nor other Federal programs such as the unemployment compensation program for Federal employees or the trade adjustment assistance program.

Changes in extended benefits, for instance, have been studied elsewhere, and we wanted to focus on the trends in collection in the base program.

The researchers developed a set of descriptive measures, of potential reasons for the gap, and then using State data, supplemented by secondary research and State-level interviews, arrived at a set of potential causes with weights assigned to each factor which would explain the gap.

The weights represent bounds on the quantitative size of the influences identified; and they result from the utilization of various

data sets, and analytic techniques used to examine the varying phenomena that were posited as the reasons for the gap.

I emphasize that the study results show no single explanation, but rather, a number of interacting factors that contribute to the gap. The causes fall into four categories: economic factors, or labor market operational factors; Federal policies; State policies; and measurement issues. I will go over each of those in a very summary manner for you here.

In terms of economic factors, two factors were identified. First of all, a decline in the manufacturing employment relative to total employment.

It was shown in a quantitative way that previous employment in manufacturing tended to increase the probability of UI receipt, and as a larger proportion of the economy has shifted to the service sector, this led to a lower receipt of unemployment insurance.

The results of our analysis showed that the unemployed in the 1980s were more likely to be in States with historically low proportions of UI collection.

In other words, unemployment had shifted from States with high proportions of collection to States with low proportion, and this geographic shift in the labor market that contributed to lower receipt.

These two economic factors account for between 20 and 34 percent of the observed change in the gap between 1970s and the 1980s.

The second factor is Federal policies. We examined a range of Federal policies, and determined that one of them, the taxation of benefits, was found to have an effect on UI receipt.

That accounted for between 11 and 16 percent of the change we are observing.

The third area is State policies. The researchers examined a number of issues under the general rubric of tightening of State programs. They looked at both legislative and administrative tightening, and concluded that many States tightened their eligibility and/or disqualification provisions, making it somewhat more difficult for voluntary quits or those with little work experience to collect unemployment insurance.

They examined a range of factors and determined that the range of activity that occurred in the States can be said to account for 22 to 39 percent of the phenomena we were looking at.

However, it should be pointed out that there was found to be very little, quote unquote, administrative tightening. Most of the effects found to occur in the States were in the area of legislated program eligibility actions.

There was very little administrative, nonlegislative activity going on in the States.

A fourth area, which has had the smallest impact, but which was observed or posited to be a reason for part of the gap was that due to improvements in data collection and analysis, there have been increases in measured unemployment that may have affected the 1970s/1980s gap that we examined.

In other words, improvements in measuring of the TUR, which is one part of the equation, may have made the insured unemploy-

ment, total unemployment rate gap, look larger than it may have been between the 1970s and the 1980s.

Let me very quickly say that the Secretary of Labor is sponsoring a series of seminars on unemployment issues, and on June 27, she sponsored the first of these seminars, which was on the subject of the gap between the insured and the total unemployment rate.

Business, labor and public members came to this meeting. Professional economists were included, including Secretary Dunlop and Commissioner of Labor Statistics Norwood. A member of your committee staff was present.

And we used the study as the basis of the discussion in the seminar.

And let me give you some results of that session.

There was general acceptance of the approach and methodologies used in the Mathematica study. Essentially, there was general acceptance that the gap had been demystified, if you will.

There was acceptance of the bounds put on some of the reasons, the quantitative bounds established for certain reasons, and a dismissal of other reasons.

There was skepticism about the conclusions of the study with regard to the taxation of unemployment insurance benefits. While using econometric methods an economist might argue that taxation was an important factor, in terms of strict human behavior, claimant behavior, it was not thought to be a strong reason for noncollection.

The Department was exhorted to provide more context for the State policies category, and to reflect a consideration of some members that State changes to their laws did not occur in a vacuum, but rather, were responses to Federal incentives for solvency in the early 1980s.

In general, there was a consensus that more data were needed on reasons for nonfiling by otherwise eligible individuals, and that there was more need for microdata on individual behavior.

And we have taken some steps to approximate or to collect some data in that regard.

We will publish the final report soon with an appendix that contains the seminar results. We are engaged in other research, as I said, which will complement the study, including some additional questions to the current population surveys that are aimed at getting at the reasons for nonfiling.

We feel our study is a valuable step toward understanding the phenomena of the gap. It has told us that no single explanation is a viable one alone. It told us that the gap is not due to greater exhaustion of benefit eligibility, nor a reflection of lack of benefit availability, and is not a result of benefit cuts to claimants, but rather, is a complex phenomena.

This concludes my general overview, and I will be glad to answer any questions the committee has.

[The statement of Ms. Wyrsch follows:]

STATEMENT OF
MARY ANN WYRSCH
DIRECTOR, UNEMPLOYMENT INSURANCE SERVICE
EMPLOYMENT AND TRAINING ADMINISTRATION
U.S. DEPARTMENT OF LABOR
before the
SUBCOMMITTEE ON PUBLIC ASSISTANCE
AND UNEMPLOYMENT COMPENSATION
of the
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

September 15, 1988

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you today. I am accompanied by James Manning and Stephen Wandner of the Unemployment Insurance Service.

Background of Gap Issue

I welcome this opportunity to discuss the findings of the recent study commissioned by the Department of Labor on the subject of the "gap" between the total civilian unemployment rate (TUR) and the insured unemployment rate (IUR). The disparity between total numbers of unemployed persons and those receiving benefits under the Unemployment Insurance (UI) program is one that has been the subject of much debate and concern in the past few years.

In 1987, an average of 32 percent of the unemployed were claiming benefits at any one time, with an all-time monthly low of 26 percent recorded in October of that year. This is in contrast to the late 1970s level. For example, in 1979, a non-recession year similar to the present situation, an average of 42 percent of the unemployed claimed benefits. It is the decline from this late 1970s level to the present receipt ratio level that has been the subject of the Department's recent research.

Our research efforts have focused on those unemployed individuals who appear to be eligible for UI but who have not applied for benefits. Let me illustrate by using data from October 1987 when the all-time monthly low was recorded. Current Population Survey and other data indicate that a significant number of the unemployed were new entrants to the labor force and reentrants without recent work experience. Such individuals are not eligible for UI. These ineligible new entrants and reentrants averaged nearly 36 percent of the total unemployed for that month. Also, in that month an additional 8 percent had been unemployed for more than 6 months -- beyond the time most States pay UI benefits. In addition, most State laws disqualify workers who leave their jobs voluntarily without good cause. This excludes an additional 15 percent of the October 1987 unemployed, leaving a remainder of 41 percent that could be expected to be UI claimants. However, only about 26 percent were receiving UI benefits. We know that 6 percent had filed claims but were found ineligible. This leaves about 9 percent who appear to have been eligible but who did not claim benefits and it is these non-filers who have been the focus of our analysis and research.

Research Efforts to Examine Gap

When the gap between the total number of unemployed and the number of recipients of unemployment benefits first became apparent, the Department of Labor undertook a series of studies to clarify the issue. First, the Department launched an intensive examination of operational experience and reports. Second, we commissioned an independent study to try to shed light on the problem. This report was completed by Dr. Gary Burtless of the Brookings Institution in 1984 and was based on national level data. The study attempted to explain the gap that had developed over the years between total and insured unemployment

and succeeded in identifying a number of potential causes for the decline. However, this study did not develop an explanatory or predictive model nor did it succeed in measuring the relative impact of the identified variables.

Third, after a series of discussions and a Congressional hearing in 1986, the Department initiated the recently completed study by Mathematica Policy Research, Inc. This study, contracted for in 1986, was designed to develop an explanatory model of the ratio of insured to total unemployment. The study was based on statistical analyses of national data over the 1948-1986 period, an in-depth analysis of more detailed data from all States over the 1971-1986 period, and in-person interviews with key UI officials in the largest States. The analysis in the report focused on the marked decline in the ratio of insured unemployment to total unemployment under regular State UI programs. (The analysis excluded extended benefits programs). The ratio declined from a level of over 40 percent in the 1970s to a level of 35 percent in the 1980s.

Major Findings of the Mathematica Study

The draft final report of this study was released in preliminary form in May of this year. Let me review with you some of the major findings and conclusions as reported by Mathematica. First, the researchers found that there was no single factor which explained the observed decline in the ratio of UI claimants to the total number of unemployed during the 1971-1986 period. Rather, the decline was caused by changes in the general labor market and by a number of policy changes at both the Federal and the State levels. This primary finding of the Mathematica study reinforced the preliminary conclusions of the previous Brookings study, of the Hearing before the Government Operations Committee and of our in-house examinations of the issue, that there were a number of interacting factors affecting the IUR-TUR ratio.

Second, the study assigned weights to a range of potential causes of the gap which fall into following categories: (1) Economic Factors; (2) Federal Policies; (3) State Policies; and (4) Measurement Accuracy.

In the economic factor category, the study found that:

-- The decline in manufacturing unemployment relative to total unemployment during the 1980s accounted for between 4 and 18 percent of the observed decline in the proportion of the unemployed claiming UI benefits since it may be somewhat easier for manufacturing workers to apply for benefits than for other workers; and

-- Shifts in the geographic distribution of unemployment accounted for about 16 percent of the decline in the UI claims ratio. During the 1980s, relatively more unemployment occurred in States with low claims ratios than in the 1970s.

The study isolated a change in Federal policy that contributed to the gap:

-- The partial taxation of UI benefits accounted for between 11 and 16 percent of the decline.

There were also changes in State UI policy, partly caused by a tightening of Federal UI loan provisions, that affected the gap:

Third, because we lack up-to-date information on the experiences, behavior and labor market characteristics of those who have exhausted their UI benefits entitlement, the Department of Labor has recently signed a contract to conduct a sample survey of UI exhaustees to gather this information. Among the issues the contractor will examine are: (1) what are the characteristics of the exhaustees compared to those of claimants generally; (2) what was their UI program experience; (3) what were their labor market experiences before and after exhaustion; (4) what were their reemployment efforts during and after their UI benefit period; (5) what job search and training assistance did they receive during their UI benefit period; (6) what were their reemployment assistance needs; and (7) what factors contributed to their continuing unemployment? Research for this project will be done on a representative sample of about 20 States to develop information that will enable us to generalize about the nation as a whole.

Fourth, we will urge the States to examine the UI gaps in their own jurisdictions. The Mathematica study highlighted the wide variation among States in the magnitude of the gap and in its relative change during the recent decade. For example, in April 1988 the State with the largest difference between IUR and TUR in terms of percentage points was Louisiana at 7.5 percentage points while the smallest gap - 0.9 percentage points - was registered in the New England States of Massachusetts, Rhode Island and Vermont. While we know that State UI laws and State administrative practices and procedures differ and that the economic bases of the States and the demographics of the States' work forces affect receipt levels, we have no firm data on the specific reasons by State. We will be sharing the Mathematica study with the States and encouraging individual State level analysis.

Conclusion

Clearly, Mr. Chairman, the gap seems to have stabilized at a level far above that experienced in the earlier decades of the UI program experience. From an historical pattern of about 1.0 percentage points difference between the TUR and the IUR, we now seem to have leveled out at about 3.5 percentage point difference. The Mathematica study, other research findings, and program experience tell us that the cause is not simply:

-- attributable to greater exhaustions of benefit eligibility - the exhaustion rate is declining while the gap has stabilized; nor is it

-- a reflection of the lack of available benefits for the long term unemployed - the BLS data indicate that the proportion of long term unemployed is decreasing; our program data show that average duration of benefit payments is about 14 weeks; nor is it

-- the result solely of State actions to tighten program requirements - States did tighten up their requirements in response to Congressional direction, but the tightening was generally to increase qualifying requirements and to freeze indexed benefit amounts, not to cut benefits for current claimants.

In short, what we know is that the issues pertaining to the gap are very complex and do not lend themselves to easy answers or explanations. With the recent studies, we have come a long way toward understanding the problems and we hope to get many more answers from the additional research and efforts now underway.

We look forward to working with this Committee in its comprehensive examination of the basic role and structure of the UI system. I can assure you that we will offer all available assistance to you and your staff in your efforts to examine the program.

Again Mr. Chairman, I thank you for the opportunity to meet with you and with the Subcommittee today. This concludes my prepared statement. I will be pleased to answer any questions you might have.

Acting Chairman DOWNEY. We may have to leave in a minute and then come back.

Ms. Wyrsch, is the gap a bad thing?

Ms. WYRSCH. I don't know whether to say its bad or good, Congressman Downey.

Acting Chairman DOWNEY. We have had missile gaps and bomber gaps; we have had lots of gaps, and sometimes they make sense, sometimes they don't.

To me, the fact that there are people eligible out there who may be suffering concerns me. But from the Department of Labor's point of view, is this a bad thing to have this gap?

Ms. WYRSCH. I would like to take a little time to explain that there will always be somewhat of a difference between the total unemployment rate and the insured unemployment rate.

And at the risk of being repetitive of things that you already know, I would just like to say that the IUR, the insured unemployment rate, the measure of those covered by the system, or getting benefits, will never equal the total unemployment rate, because new entrants, reentrants to the labor force are typically not covered; job leavers, people who voluntarily quit, are not eligible.

So there is always a range of people who are not covered and there will always be a difference.

Acting Chairman DOWNEY. The gap we are talking about is between what has historically been the case and is currently the case.

Ms. WYRSCH. In this sense, the gap is a bad thing, if you will, because it shows us that there are some phenomena occurring out there, which means that potentially eligible people are not filing for unemployment insurance benefits, and therefore, the system is not working to that extent.

Acting Chairman DOWNEY. I am happy with that answer.

Let me just take a couple of things that the Mathematica study said, and maybe you can embellish them for me.

First, let's look at the decline in manufacturing unemployment, relative to total unemployment, and second the fact that unemployment now is higher in States where it hadn't been high before.

Have manufacturing workers historically looked to unemployment insurance during periods of downturn and then returned to their jobs? Have they seen unemployment insurance as part of the safety net of their work? Was this implicit in large numbers of manufacturing workers on unemployment insurance?

Is that the point that is made when it is said that there are fewer manufacturing jobs, people who are now employed in other things, and that this somehow leads to fewer workers being interested in these benefits?

Ms. WYRSCH. Well, there are two things operative. First of all, our data show that there are statistical correlations between employment in the manufacturing sector, durable goods sector, and UI receipt.

Acting Chairman DOWNEY. Why?

Ms. WYRSCH. We don't know exactly why; we have to conjecture about that. We don't have statistical support for that.

Acting Chairman DOWNEY. Give me your best guess.

Ms. WYRSCH. The conjecture is, the various reasons that we have used for conjecture, and I will ask Steve Wandner to supplement

my answer if I miss the mark, are a higher unionization in that sector.

Acting Chairman DOWNEY. They know about the benefits?

Ms. WYRSCH. They know about the benefits. Mass filings at plants, when there are layoffs, and sometimes the State agencies actually take the claims taking operation to the plant site. The culture of utilization of a system for income maintenance in times of temporary downturn is more prevalent than in the service sector.

Acting Chairman DOWNEY. Okay.

Mr. WANDNER. Well, what I would add to that is the fact that there is sometimes regular seasonal patterns of unemployment and cyclical patterns.

Acting Chairman DOWNEY. So it is an accepted part of the practice of the industry that they are going to shut this plant for the summer, or part or most of the summer, and everyone is going to go off and get unemployment.

Let me ask you about this question of the shifts in geographic distribution of unemployment. Why would all of a sudden people—let us use the case, and I don't mean in any pejorative sense in advance to anybody in Louisiana, let's say, or in Texas—who have higher rates of unemployment, suddenly not be, or over a period of time not be, interested in collecting benefits, where the people in Pennsylvania or in Illinois might have been interested in collecting benefits.

That is what it seems to me you are suggesting. Workers are moving to these States, and yet these people are not interested in collecting benefits.

Is this part of the same answer?

Ms. WYRSCH. Again, I will ask Steve to supplement this. But what we are saying is that the incidence of unemployment has moved to the West, the Southwest, the Midwest, away from areas where it had occurred in the 1970s, say.

So between the 1970s and the 1980s, you have higher unemployment in States which have historically low collection rates.

I don't know that we can say anything about the individuals residing there.

Acting Chairman DOWNEY. But why would the shift to another State make a difference? What is the answer to that?

Mr. WANDNER. Well, we have data on the gap by State. And the gap varies considerably between States, and there are regional differences between States.

Acting Chairman DOWNEY. Tell me what the regional difference is. Is it the nature of the industry, the lack of unionization or the presence of unionization?

Mr. WANDNER. Well, we are in fact trying to figure that out. And we have a study that we are planning to conduct in that area.

Acting Chairman DOWNEY. What about the level of benefits? Is it possible that the benefits are less generous in some places, and people may not be interested in applying for them?

Ms. WYRSCH. We have done no analysis that correlates low receipt to level of benefits and so on. We know that there are a range of reasons possible: the demographics in a State; State administrative practices; and so on.

I think that some of the research that we plan to undertake within the next year, not specifically about States, but about behaviors may give us some answers.

Acting Chairman DOWNEY. Lastly, and then I am going to recess the hearings and come back.

You seem to discount this idea that the taxation of UI, at least in the seminar that the Secretary held, makes much difference to individual behavior.

That was my intuitive belief. But do people know that unemployment benefits are taxed? And would they be afraid that they would have additional visits from the IRS?

Why would knowing that your benefit might be a little bit less deter you from applying for it?

Ms. WYRSCH. Well, the data that were utilized by our researchers showed that there was an effect on receipt by the anticipation of the taxation of the benefits.

However, what I pointed out in my testimony, or my summary remarks, is that there was a disbelief that that factor would operate in basic, everyday human behavior. In fact, if I can quote former Secretary of Labor Dunlop, and I paraphrase him at the seminar, he said that if you were an economist you would have to say that taxation affects behavior, but that as a human being, thinking about receipt of the benefits, you would go for the benefit, and not stop——

Acting Chairman DOWNEY. There are economists who are human beings.

Ms. WYRSCH. That's right, some.

So I pointed out that that was one of the places that the seminar participants were fairly skeptical.

Acting Chairman DOWNEY. Yes. I am going to vote. We will stand in recess for five or ten minutes.

[Recess.]

Acting Chairman DOWNEY. Let's come to order.

Ms. WYRSCH. Mr. Downey, if I may, Steve Wandner would like to expand a little bit on the tax question.

Acting Chairman DOWNEY. Sure.

Mr. WANDNER. The concern that occurred at the Secretary's seminar was an attempt by the people who were attending to try to understand what mechanism, how people actually would respond and be less likely to collect benefits.

There was some agreement that they couldn't really think of what that mechanism was. There was some discussion about, do people actually consider such a factor before they file for benefits.

There was the concern about the timing, the fact that individuals don't have withholding from their unemployment insurance, and they only have to pay the tax at a later period of time.

Nonetheless, economists such as myself who are also human beings, have looked at programs in the past and have seen that there does seem to be a behavioral response. And the basic mechanism that most individuals have thought of is that there is a certain replacement of lost wages that the unemployment insurance system provides, and that individuals who would think that that replacement rate had in fact decreased.

There has not been a lot of study of this to actually look at real data. We know of one study that was done in the State of Georgia that seems to indicate that individuals before and after January 1, 1979 did in fact decrease their filing for and collection of unemployment insurance, before and after Federal law changed in decreasing the threshold for taxation of benefits.

And the Mathematica people based their analysis, at least in part, on that study and some other studies.

Acting Chairman DOWNEY. Thank you.

Let me ask you some general questions about the trust fund itself. How would you characterize it? Is it in good shape? Are we prepared for an impending recession? Or are there things that we should be doing to improve the situation today?

Ms. WYRSCH. I would say in general the trust fund is healthy overall. There are some individual State funds which I think it would not be unfair to characterize as fragile.

Acting Chairman DOWNEY. Who are they?

Ms. WYRSCH. There are States which have just repaid loans and are on a very recent current basis with us. I would say the State of Texas is one. Louisiana is another.

Acting Chairman DOWNEY. States with high unemployment?

Ms. WYRSCH. States with high unemployment, with heavy recent borrowings from us in the last 2 or 3 years.

In general, I believe that the replenishment factors which operate in the unemployment insurance trust fund, where States pay back in good times the drawdowns from high payout times is operating.

As you can recall, States as a whole were about $14 billion in debt to the U.S, Treasury in 1983–84. We now have about $25 billion to the good in the trust fund, and there has been an extraordinary recovery and payback over the past 5 or so years.

So I think the system is healthy. That does not mean that some States are not in trouble.

Acting Chairman DOWNEY. Healthy enough for us not to have to worry about what the impact of another 1981–82 recession would have on the trust fund? That healthy?

Ms. WYRSCH. It is the case—we testified before——

Acting Chairman DOWNEY. I realize it is hard to predict these things. But I am concerned that there might be more that we can do to put ourselves in even better shape.

Ms. WYRSCH. We are able to give you some data, and I will ask Jim Manning to address some detail which I cannot. But in essence, there are two kinds of measures you look at: whether States as a whole can pay what we call a high cost multiple, and that would 1½ times the highest benefits ever paid, which for some States are in the early 1980s period; others are in the 1970s. Or to take a look at whether they can pay their current level of benefits for some period of time.

And I am going to ask Jim to give you those data.

It is the case that not very many States are able to meet that high cost multiple. However, they are on a current basis fairly strong.

Acting Chairman DOWNEY. Before you do that, would it make sense for us to try to encourage States or require them to do more, to be in better shape?

Ms. WYRSCH. We have encouraged them—we have a number of incentives that are in place right now to promote solvency. States can get some forgiveness on certain rate provisions for the unemployment trust fund if they have taken certain actions and so on.

It is our sense that the system is operating well; that there is not a need for any extraordinary action at this point in time.

Jim, do you have that data?

Mr. MANNING. In looking at the high cost multiple and determining which States would meet a 1.5 multiple, which we have considered over time as an adequate measure at the time a recession would start, Hawaii currently meets that; Mississippi, South Dakota, and the Virgin Islands.

A number of States are getting close to that level, but have not reached that level that.

Acting Chairman DOWNEY. Those are not high population states.

Mr. MANNING. It is also not right at the beginning of a recession at this point, so they are building toward that.

Acting Chairman DOWNEY. Let me ask you one last question about extended benefits. There are no States at the current time paying extended benefits, are there?

Ms. WYRSCH. That's correct; no States.

Acting Chairman DOWNEY. Is it bad that they don't bother to pay extended benefits in the States where unemployment is above 8 percent? Should we encourage them to pay? Should we take any action to force them to pay.

Ms. WYRSCH. It is the case that no State is on extended benefits. Staff tell me that even under the pre-1981 rules that governed extended benefits, only one State would be on at the present time.

So I would say that there probably is not a reason to encourage States in any way. However, it is up to the Congress to determine whether there is a reason to put them on or not.

But from our point of view, there is not a reason.

Acting Chairman DOWNEY. So Ms. Wyrsch, the answer to some of the questions—I didn't hear it, but I will give you a chance to respond—is while the trust fund is healthy, an 1981 or 1982 type recession will cause problems; is that fair?

Ms. WYRSCH. That's true. It may force some States to borrow from the trust fund. However, we have considered that the provision for borrowing is not a bad thing per se; that it is a stopgap that is available to States and has been available for a number of decades, and that it is a provision that is there for them to use.

Acting Chairman DOWNEY. Finally, as to these behavioral changes which seem to be defying our level of understanding, though we have some ideas, we are continuing to study and try and find out exactly why in some States people apply, and some people in other States don't; is that fair?

Mr. WANDNER. That's correct.

Acting Chairman DOWNEY. I've exhausted my knowledge of this subject. Mr. Pease.

Mr. PEASE. Thank you, Mr. Chairman.

Ms. Wyrsch, I have a number of questions. You say in your testimony on page 2 that your research efforts have focused on those unemployed individuals who appear to be eligible for UI but have not applied for benefits.

Earlier on, you say that 32 percent of the unemployed were claiming benefits at any one time. And that is down from 42 percent in 1979.

What is the reason for that drop between 1979 and 1987 of 10 percentage points in the number of people?

Ms. WYRSCH. Well, that percentage drop was the focus of the Mathamatica policy research that we funded. We were aware, and in fact the research study statistically outlined, if you will, that there was a very real change between the 1970s and the 1980s, and then went on to identify some variables that might explain that change.

And they ranged across the four areas that we discussed, Federal policy, State policy, economic factors, and so on. And then we assigned various weights to those reasons as a result of that study.

And our sense is that the Mathematica study gives us a good idea about the parameters if you will of the reasons for the change. It is a multifaceted set of reasons, in our view; there is no one explanatory factor.

Mr. PEASE. Do you believe that 9 percent of those who appear to have been eligible did not file, right? I don't understand that.

Let's say we have 100 unemployed persons, 32 are claiming benefits now, right? How does this 9 percent fit in?

Ms. WYRSCH. I think that they are referring to an exercise which we undertook when we reached an alltime low in October of 1987 to explain how you get from the total unemployment figure, as measured by the current population survey, down to the percentage that is collecting unemployment insurance.

And if you wish, I will run through what we call a stepdown analysis that I think will explicate this issue.

Mr. PEASE. Okay.

Ms. WYRSCH. And we use data from October, 1987, because that was a point of all-time low in which we began to get a lot of inquiries.

In that month there were 6.8 million unemployed. From the current population survey, we are able to determine that a number of categories would not be traditionally covered by the unemployment insurance system; and so that job leavers, people who voluntary leave jobs, would—and in that month totalled 1,030,000, would be removed from the 6 million figure.

Remove reentrants to the labor force, on the theory that they did not have enough labor force attachment to qualify for UI. And we adjusted that somewhat to recognize that some may have been. That's another 1.8 million removed.

New entrants to the labor force, according to CPS, are 860,000.

Mr. PEASE. How does that new entrants to the labor force compare with the first category you mentioned? What was your first category?

Ms. WYRSCH. Job leavers was my first category. Reentrants, persons who, say, were out of the labor force for some time and, ac-

cording to our analysis, we assumed that they had been out for a long enough time to lose their eligibility for unemployment.

And then new entrants would basically be young persons or persons returning to work after some time.

Mr. PEASE. New entrants into the work force?

Ms. WYRSCH. New entrants into the work force, basically young persons.

Mr. PEASE. Who have subsequently lost their jobs?

Ms. WYRSCH. No, they would have answered the question, the current population monthly survey, that they were unemployed and looking for work.

Mr. PEASE. They were new entrants into the work force, but high school graduates who had never held a job?

Ms. WYRSCH. That is right, they would be persons who had never had work. And our estimates in that month were that that totalled about 860,000.

So you have gone from 6.8 million, taking out those three categories, leaving job losers. And essentially people who have had a job and lost a job. That totalled 3.8 million in the month of October 1987.

UI claimants for that month totaled 1.7 million. That would have been 25 percent in that month. It's now back up to 32 percent.

We have disaggregated that number. Then we have explained the difference between the 3 million job losers, and the 1.7 million UI claimants, and we have a number of reasons.

Job losers over 26 weeks, as measured by the CPI, were 500,000. People who exhausted UI before 26 weeks, basically State laws operated to not let them collect the full 26; another 39,000.

Self-employed, 80,000. Persons who were monetarily ineligible, 200,000. Persons who had duration disqualifications—and these are all operating factors of State programs, where they determine eligibility—another 100,000.

We adjusted the data, about 300,000 added back in for reentrants who might have been eligible and persons who are gaining partial benefits.

And we come up with a number of this total level, and we've talked about a lot of numbers here, I understand, of about 650,000 that we cannot explain, in our analysis.

And that in this month totaled 9 percent. And that was what we were referencing.

Mr. PEASE. Okay. You offered taxation of UI benefits as an explanation for why some people apparently eligible actually did not file.

Can you tell me in what way taxation of benefits would serve to cause people not to file at all?

Ms. WYRSCH. Well, we have discussed this a little bit here. And I will ask Steve again to talk about the economists' view, and the views of some of the seminar participants after I give a summary.

Some of the literature that was available to us, the research literature, about wage replacements and whether the level of wage replacements had an effect on receipt, was used to determine that in fact the existence of a tax may have kept some people from filing.

Those are economists' arguments; those are econometric studies.

However, many of the seminar participants had trouble, as Steve said, identifying what real life behavior, what motivations would lead them not to go to claim unemployment insurance if they knew that at some time after that they might be taxed on whatever their tax rate is.

Mr. PEASE. I have that trouble, too.

Mr. WANDNER. Well, there has been a very long literature about the impact of how much unemployment insurance you give to people, and about how differences between States, or between individuals, or over time, affects whether people collect benefits, and how long they collect it for.

And it seems to indicate that the more you give people in unemployment benefits, the more likely they are to collect benefits.

And if that is the case, then you would expect that if you tax benefits, it reduces the value of benefits to people, and they are less likely to either initially collect benefits, or to reduce how much—how long they would collect those benefits.

That is a fairly difficult thing, I think, to explain with respect to individual people. But that is what the researcher came up with in this study, that they did think that that did have an effect; they did look at some existing research, and thought that there was support for that hypothesis.

Mr. PEASE. Did you ever talk to any unemployed workers and ask them?

Mr. WANDNER. Clearly this is a statistical analysis, and it does not deal with individual people and ask them whether that is what motivates them or not.

Mr. PEASE. I have always regretted, Mr. Chairman, that I did not have the benefit of statistics so that I could do this sort of thing. All this time I have had to rely on actually talking to people to find out what they do and how they feel. It has been a big void in my life over the years.

You have been talking about people explaining why those who apparently are eligible did not apply, and you list the four factors here.

But in getting down from over 6 million down to about 3 million, you said various people were not eligible because of State requirements; because they have been unemployed too long; and so on.

Wouldn't you think that we ought to look at those exclusions also in trying to figure out why only 32 out of 100 people file for unemployment now as compared with 42 before?

Ten years ago States offered more benefits. In 1981 and 1982 the administration proposed and got through Congress some restrictions cutting people off of unemployment compensation, requiring States to do that, tightening up on the eligibility for EB and so on.

Wouldn't you be concerned? An unemployed person is an unemployed person. So you have 68 people unemployed and not collecting benefits out of every 100 people unemployed, shouldn't we worry about that?

And shouldn't we worry about whether unemployment is of longer duration now than it used to be, and therefore, we need to look at EB and make it easier for people to qualify for EB rather than harder?

Why was your focus on only those people who appeared to be eligible who were not? Why would you not have looked at those who were ineligible because of changes in the law that have been made in the last 8 years?

Ms. WYRSCH. I think what we were trying to do, much of the concern about the gap, and the reduction from the sort of standard level of 40, 41, 42 percent, down to the low 20s or 30 percent, was focused on what we could understand about the operation of the present system, as it is proposed, or constituted.

So basically our thrust was to look at the present system, and we did not look back to reexamine policy changes.

A number of the changes in level of coverage from, say, the very high levels that have been in the popular press, if you will, 67 percent coverage in the 1970s at some point, down to the present, have really compared apples and oranges, in that they were talking about very high periods when there were second and third tier benefits available, as opposed to now when we do not have EB triggered on.

We thought that those phenomena were fairly well explained, and that our focus was on the present system and how it was operating.

Mr. PEASE. All right, I see. Thank you.

Mr. Chairman, it is pretty clear that the Department was taking a fairly narrow focus, and I think we need to keep that fact in mind.

But I would hope that in our discussions we would look more broadly at the number of people who are out there, 60 out of every 100 who are not employed and not collecting benefits, and ask whether the unemployment compensation system is really responsive to those people or not.

Thank you.

Acting Chairman DOWNEY. I would inform them that I took statistics, and they missed nothing.

I want to thank the panel.

Next the committee will hear the Congressional Research Service, James Storey, a specialist on social legislation, and I expect had a lot to do with the publication of this report.

Welcome Mr. Storey. I assume that you are the study's author, or one of them.

STATEMENT OF JAMES R. STOREY, SPECIALIST IN SOCIAL LEGISLATION, EDUCATION AND PUBLIC WELFARE DIVISION, CONGRESSIONAL RESEARCH SERVICE, LIBRARY OF CONGRESS

Mr. STOREY. I was the director of a team that did this work, yes sir.

Acting Chairman DOWNEY. Well, I had a chance to read the summary, and I am in the process of trying to read part of the report, and it appears to be well done. My congratulations to you and to the members of the team that gathered it.

If you would proceed with your statement, it will be placed in its entirety in the record. And if you would summarize it, that would be most helpful.

Mr. STOREY. Thank you, Mr. Chairman. I will provide a brief summary of my prepared statement.

As I indicated, a team of Congressional Research Service analysts have prepared the report that your subcommittee requested, and that you have released this week.

The report focuses on six major issues that were identified in your request to CRS. Those issues were: first, the adequacy of program financing; second, the decline in the proportion of unemployed who receive unemployment comp; third, the availability of extended benefits for the long term unemployed; fourth, the extent to which benefits replace lost wages; fifth, the reduced significance of unemployment comp as a tool of economic stabilization; and sixth, the role of employment and training services in reducing long term unemployment.

In my testimony today I will first discuss the financial status of the system, then review the policy changes that have reduced program spending, largely in response to financial constraints, and then describe the consequences of these actions for program participation, for benefit durations and levels, and for overall fiscal policy.

Starting with the financial status of the system, State programs are designed to be self-financed. The States determine their programs' financial requirements by establishing rules for eligibility and benefit amounts, and they finance these benefits by taxing their employers' payrolls, the revenues from which are deposited in trust for the U.S. Treasury.

If a State program runs out of funds, it may obtain Federal loans. A State program's funds derive from credits that are established in the Federal unemployment trust fund for the State collected revenues.

A State's spending authority, which is determined by its trust fund credits, is referred to as the State program's reserves. Analysts have measured the adequacy of these reserves by comparing them to peak historical demand for benefit payments.

This measure, which is called the high-cost multiple, is displayed for recent years in chart 1 that accompanies by prepared statement.

The larger this multiple is, the less likely it would be that a State's program would become insolvent.

Before the 1970s, State reserves were ample, relative to the need for unemployment benefits, and State borrowing was not a major problem.

In 1969, for example, only one State had a high cost multiple of less than 1 while 20 States had multiples of at least 2 or more, which would be considered today a very high level of reserves.

By 1979, the high cost multiple was less than 1 in 40 States and no State had a multiple in excess of 2.

During the 1970s, 23 States had to borrow Federal funds to keep their program solvent during those years, and the major recession of 1981 and 1982 dealt another setback to the programs. Outstanding loans peaked at $14 billion in 1984 when 26 States had outstanding loans.

State reserves have improved significantly since the 1981–82 recession. Only three States now have outstanding loans, and reserves in the State accounts have nearly tripled since 1979.

This improvement is due in part to the long period of economic growth that we have had recently, but it is also due to financial incentives that were established in Federal law for States to improve their reserve levels.

However, we do see potential for trouble ahead when we look at the data. Despite these funding improvements, all but 14 States still have high cost multiples below 1. Of the 10 largest States, 9 are below this level.

Thus, adverse economic conditions could result in a large number of insolvent programs and substantial State borrowing, although it would probably take a major recession to throw the system into the kind of disarray that we had a few years ago.

With the Department of Labor's assistance, we prepared some projections for a modest recession occurring in 1990, and this projection showed that new borrowing would be triggered by States, but the total amount borrowed would fall far short of the level experienced during the severe recessions of the 1970s and 1980s.

These projections for a recession beginning in 1990 showed that 11 States might need to borrow funds, but that outstanding loans would not exceed $1.2 billion in any 1 year.

If further funding improvement were desirable, the Federal Government could directly force State funding improvements by raising the ceiling on wages subject to the Federal unemployment tax.

The ceiling, which is now $7,000, would have to be raised by a large amount to restore it to the value equivalent to what it was in 1939, when the original $3,000 ceiling was set. Chart 2 in my statement shows graphically what those values would have to be.

It would have to be $42,191 if we raised the ceiling to a level that would account for wage growth since 1939.

But even if the Federal Government chose an incremental increase in the ceiling, say to $10,000, it would force 35 States to increase their own taxable wage bases.

There are of course other approaches that could be taken as well, such as requiring States to meet a funding standard, or setting up a reinsurance fund that would provide Federal funds to a State program when its benefit costs exceeded what was considered to be a long-term norm.

As the financial demands of the system became apparent in the late seventies, several actions were taken to reduce its impact on the Federal budget. First, some benefits were subject to income taxation in 1978. Then the extent of benefit taxation was increased in 1982. And then benefits were made fully taxable in the Tax Reform Act of 1986.

Second, benefit eligibility was restricted for pensioners and certain unemployed former military personnel.

Third, the extended benefits program was sharply curtailed.

And fourth, the Federal unemployment tax was expanded, with both the taxable wage base and the tax rate being increased in 1977 and again in 1983.

The Federal Government also increased the pressure on debtor States by establishing interest charges and by forcing repayments to begin after a certain time had elapsed.

This pressure led States to restrict eligibility. State actions included increasing the earnings required to qualify for benefits; expanding the disqualification of job leavers, and those dismissed for misconduct; and increasing penalties for refusal of suitable work.

The cumulative impact of these Federal and State actions seems to have been significant. I would now like to turn in my remarks to what seem to be some of the consequences of those actions, starting with the decline in program participation.

As you have already heard, the proportion of unemployed receiving benefits declined to all time low levels in the 1980s, falling to 32 percent for 1987.

Chart 3 in my statement shows some trends going back to earlier years as to what that rate had been. It was generally between about 45 and 60 percent for most of the time before 1975.

The research that you have already heard described indicated that the decline was due to a combination of factors: Federal and State policy changes reduced benefit availability and discouraged applications; a shift of jobs from manufacturing to other sectors seems to have reduced employment in the industries that traditionally had the highest rate of benefit use; demographic factors, such as more women and younger workers in the workforce, have had some effect on participation in the program; and finally, the shift of employment among regions in the country may have added to this trend.

For those who do draw benefits, there is less likelihood of receiving extended benefits than there once was. Federal legislation in 1981 to narrow the conditions under which extended benefits are made available has led to the current situation in which no State program offers benefits beyond its regular duration, usually 26 weeks.

The additional 13 weeks that are available for extended benefits is not offered anywhere, even though 5 States, as recently as June of this year, had unemployment rates in excess of 8 percent.

As a result of this policy change, far fewer payments of extended benefits were made during the 1981–82 recession than were made during the 1973–75 recession, and chart 4 in my statement shows this comparison.

Unemployment rates were higher in 1981–82 than in the mid-1970s, but extended benefit payments were actually 48 percent less than in the early recession, when you measure them in inflation-adjusted dollars.

Although extended benefits have been pared back, the rate at which beneficiaries exhaust their regular benefits continues to run at about one-third of initial claims, which is typical for nonrecession years.

In 1986 regular program exhaustees totaled 2.7 million individuals, and the average duration of unemployment has actually lengthened in recent years. It was around 12 weeks in the 1960s and 1970s, and in the 1980s, the average was 15.6 weeks for a spell of unemployment.

This situation has prompted the introduction of several bills to modify the State triggers for extended benefits, and interest has also risen in innovative employment and training strategies to cope with long-term unemployment.

Turning now to benefit levels, the formulas that States use to compute benefit amounts from covered wages have actually been reduced over the last 10 years in 20 States, although the reductions were slight in most cases.

State efforts to reduce their benefit costs have been directed more at eligibility rules than at benefit levels.

Another way that benefits have been reduced is that the majority of States have failed to keep their benefit maximums current with inflation. With the maximums falling in real value, it means that the benefit values for medium- and high-wage workers are also falling in real terms.

The CRS study estimates the level of benefits in each State for 1988 for hypothetical unemployed workers at three different wage levels.

The benefit levels are compared to the worker's prior wage to determine a wage-replacement rate. On a before-tax basis, the median State replacement rate is 50 percent for workers who earn the average wage in each State.

However, there is a variation among States, and this replacement rate is as low as 35 percent and as high as 65 percent, depending on the State involved.

Because of the benefit maximums, wage replacement rates are lower, the higher the wage. Our analysis shows that replacement rates range from 40 to 73 percent for a low wage worker earning $5.50 an hour, but for a high-wage worker, earning $21.50 an hour, the rates range from 14 to 33 percent.

If we use a replacement rate of 50 percent as a standard for the program to aim for, and this was the level of replacement that the original designers of the system had in mind, then 49 of the 53 State programs would meet that standard for the low wage worker; 34 would meet it for the average wage worker; but no program would have a wage-replacement rate that high for the high-wage worker.

To understand the degree of financial hardship imposed by unemployment, it also is important to look at how unemployment comp helps maintain a worker's annual income over an entire year.

A spell of unemployment averages around 15 weeks right now, and that means that the typical person who comes into the program is going to earn wages for the other 37 weeks.

We did some analysis of this to see what the maintenance of a person's annual income would be over the entire year, with this average spell of unemployment factored in, and we found that the typical unemployed worker would have a loss of annual income ranging from 10 to 17 percent, depending on the State.

Of course this degree of income loss would be less if the person were in a family that had other earners, or had substantial unearned income. The loss would be much greater in a situation where the unemployment spell was a lot longer.

Turning now to the economic stabilization role of the unemployment comp program, the system is highly sensitive to changes in the business cycle. Benefit payments rise, and revenues fall, during an economic downturn, and the reverse occurs during periods of growth.

Thus, the system automatically exerts a fiscal effect that helps stabilize the economy, the timing of which does not require congressional action.

For that reason, economists have long regarded the unemployment comp system as an important part of a strategy to turn around a recessionary economy.

In our study we compared unemployment comp spending to gross national product to see if the relationship had shifted in different time periods. Chart 5 in my statement shows this data.

What we found was that the countercyclical impact of the system was smaller during the 1981–82 recession than during the 1973–75 recession; that is, the swing of the system, going into deficit during the recession, and back into surplus after the recession, was greater, relative to the total economy in the 1970s, than it was in 1981 and 1982.

Of course, this has not been a big issue because, during the 1980s, we have had very large Federal deficits which have tended to obscure the role that the unemployment comp swings may have been playing.

Whether the program's intended stabilization role is regained in full depends partly on the future fiscal position of the Federal Government. If the budget deficits are reduced substantially, then the unemployment compensation system will again exert a stronger relative influence on fiscal policy.

However, the program's countercyclical role might still be smaller compared to earlier decades because of the policy decisions that have been taken to tax benefits and to restrict benefit availability somewhat. These adjustments will reduce the degree of the system's automatic response to changes in the economy.

I would like to conclude my remarks by talking briefly about a review we did of financing the unemployment compensation system's administration.

We reviewed issues that had been raised by the States concerning the level of Federal funding for program administration and how the funds are distributed among the States.

In regard to this latter point of distribution, we discovered that 23 States have consistently received more funds in recent years for administration relative to what their employers pay in taxes, and 16 States have consistently received less.

So in other words, 39 of the State programs have either been typically on the winning side or the losing side, when you look at the redistribution of tax moneys into administrative grants.

The States that tended to be winners were either large, lightly populated States, with high unit costs for program outreach, or States with relatively high participation rates for the unemployed.

Any modified allocation formula for these grants would probably continue a similar pattern, unless grants for administration were explicitly related to the taxes that each State's employers pay.

I would like to stop at this point, Mr. Chairman, and just say that there is a lot more in our study as you know than I could possibly cover in this hearing, but I would be glad to answer any questions, either about my statement, or about any other material that is in the study.

[The statement of Mr. Storey follows:]

STATEMENT OF JAMES R. STOREY, CONGRESSIONAL RESEARCH SERVICE, LIBRARY OF CONGRESS

UNEMPLOYMENT COMPENSATION: PROBLEMS AND ISSUES

I. OVERVIEW OF STUDY

Mr. Chairman and Subcommittee Members, I am Jim Storey, a legislative analyst with the Congressional Research Service. My testimony today will summarize the key findings of a study CRS has recently completed for your Subcommittee.

The Unemployment Compensation program is a complex Federal-State system that will pay an estimated $13.6 billion during fiscal year 1988 to 7.1 million workers who have experienced a spell of unemployment and are qualified for benefits. The Federal and State payroll taxes that provide the system's funding will bring in revenues of $23.0 billion. This large social insurance program serves a number of purposes: (1) it provides cash income to a covered worker whose wage income has been interrupted by a spell of unemployment; (2) by cushioning the loss of wages, it improves an unemployed worker's opportunities to search for a job with pay and working conditions similar to the lost job; (3) it helps employers regain their trained workforce after a layoff by making it possible for those laid off to delay taking new jobs; and (4) it may help stabilize the national economy by maintaining purchasing power during recessions.

A long period of economic growth stretching from 1982 through 1988 has offered a respite from the major Unemployment Compensation benefit and financing issues with which Congress grappled in the 1970s and early 1980s. However, even during this relatively benign period for the system, criticism about its performance is often heard. As a result, pressures may build to consider changes in the system.

On January 28, 1988, the House Ways and Means Subcommittee on Public Assistance and Unemployment Compensation requested that the Congressional Research Service conduct a study of the Unemployment Compensation system. CRS responded by forming a study team to undertake the requested work. 1/ The report on that work, entitled "Unemployment Compensation: Problems and Issues," was submitted to the Subcommittee on September 8, 1988. My testimony today will summarize the most important findings of our study.

The objectives of the study are to describe how the Unemployment Compensation system works and to analyze the policy issues identified by the Subcommittee in its request. We hope that this report will offer Congress a basis of general understanding about the system and focus attention on those issues that will be particularly crucial during an economic downturn.

Our study report analyzes the system's performance in the context of six issues:

(1) The adequacy of program financing. The heavy indebtedness of State programs to the Federal Government earlier in this decade has been diminished by reduced unemployment, tightened eligibility rules, and tax increases, but the system remains vulnerable to a severe recession.

(2) The decline in the proportion of unemployed who are benefitted by Unemployment Compensation. The proportion of unemployed who

---

1/ The CRS study team was directed by Jim Storey. The other team members are: Vee Burke, Elizabeth Cook, Gene Falk, Celinda Franco, Carolyn Merck, Gloria Moreno, Ilene Shapiro, and Karen Spar.

actually receive benefits has fallen to 32 percent, raising questions about the reasons for the decline and its policy implications.

(3) The availability of the Extended Benefits program for the long-term unemployed. Benefits beyond the regular 26-week program are not now available in any State despite the persistence of high unemployment in some States, raising questions about the Federal rules that govern its availability.

(4) The extent to which Unemployment Compensation benefits replace lost wages. The adequacy of unemployment benefits depends on the State in question, how long the unemployment spell is, and the total income available to the family from all sources.

(5) The reduced significance of Unemployment Compensation as a tool of economic stabilization. Changes in Unemployment Compensation benefits and financing have reduced the relative impact of the program on Federal fiscal policy, a change that may not be of great consequence in an era of large budget deficits but which may be of concern in a recession.

(6) The role of employment and training services in reducing long-term unemployment. As the U.S. economy has undergone significant restructuring in recent years, interest has been heightened in new approaches to reducing structural unemployment through training and jobs programs.

In this testimony, I will summarize the key findings from this CRS study. First, I will discuss the financial status of the Unemployment Compensation system. Second, I will review key policy changes that have reduced program spending, in large part as a response to financial constraints. Third, I will discuss the consequences of these actions for program participation, benefit levels and durations, and the implications for overall fiscal policy. Finally, I will talk about employment and training issues and the funding for program administration.

II. IS THE SYSTEM SOUNDLY FINANCED?

A State's Unemployment Compensation program is supposed to be self-financed. States finance benefit expenditures by taxing their employers' payrolls, the revenues from which are deposited in trust with the U.S. Treasury. States by and large determine the financial requirements of their programs by establishing rules for eligibility and benefit amounts. If a State program runs out of funds, it may obtain Federal loans. Because of these arrangements, benefit financing raises policy issues internal to the system that are separate from, but related to, the larger questions of overall government expenditures, taxes and budget deficits.

The Federal Government, through legislative and budgetary decisions, can decide on the affordability of benefits nationally based on the program's estimated revenues and outlays for a particular year, the Government's overall fiscal posture, and competition from other spending priorities. However, the insurance nature of the system complicates such decisions by injecting the need for each State program to prepare financially to cover its own risk. That is, each State must obtain funds to cover its own residents' benefit payments. The system may produce large surpluses of revenues over expenditures nationwide, while specific State programs may be at or near the point of insolvency.

A State program's "funds" derive from credits established in the Federal Unemployment Trust Fund for revenues collected by the State from its employers and deposited with the U.S. Treasury. The "proper level" of these credits--that is, a level that would meet a standard for financial soundness--cannot be determined for more than a short period of time due to the impossibility of predicting long-term State unemployment levels. However, program reserves must be accumulated over long time periods to avoid excessive taxation of employers during any one year as benefit expenditures fluctuate with the economy. Although a long-term standard of funding adequacy is needed in order to measure the sufficiency of the program's taxation, the unpredictability of benefit payments over the long run has prevented a consensus about what such a standard should be.

State spending authority is represented by trust fund credits (i.e., the system's "reserves"). Analysts measure the adequacy of these reserves by comparing them to peak historical demand for benefit payments. This measure is called the "high-cost multiple." 2/ (See Chart 1.) The larger the multiple, the less likely a State's program will become insolvent.

Before the 1970s, reserves were quite ample relative to the perceived need for unemployment benefits, and State borrowing to meet revenue shortfalls was not considered to be a major problem. In 1969, only one State had a high-cost multiple of less than 1.0, while 20 States had multiples of 2.0 or more. By 1979, the high-cost multiple was less than 1.0 in 40 States, and no State had a multiple in excess of 2.0. Twenty-three States borrowed Federal funds to keep their programs solvent during the 1970s. The major recession of 1981-82 dealt another setback to the system's finances, with outstanding loans reaching a peak of $14.0 billion owed by 26 States in 1984.

The funding of State programs has improved significantly since the 1981-82 recession. Only three States currently have outstanding loans. State program reserves have nearly tripled since 1979. This improvement is due in part to a long period of economic growth, but it is also due to financial incentives established in Federal law for States to improve their funding balances.

However, there is potential for trouble ahead, since the recent funding improvements have still left all but 14 States with high-cost multiples that fall below 1.0. Of the 10 largest States, 9 fall below this level. This circumstance indicates that adverse economic conditions could result in a large number of insolvent programs and sizable State borrowing.

Despite the potential problems, it would take a major recession to throw the system into a new period of financial disarray. Projections show that a modest recession occurring in 1990 would trigger considerable borrowing by States, but the cumulative amount borrowed would fall far short of the level experienced during the more severe recessions of the 1970s and 1980s. Projections made for a moderate recession beginning in 1990 found that 11 States would need to borrow Federal funds, and outstanding loans would not exceed $1.2 billion.

If further improvement in funding were desired, the Federal Government could force further State funding improvements directly by raising the ceiling on wages subject to the Federal unemployment tax. The ceiling, now $7,000, would have to be raised to $42,191 (Chart 2) to reflect fully the growth in wages since the original ceiling of $3,000 was set in 1939. Even a modest increase in the ceiling to $10,000 would force 35 States to increase their own taxable wage bases.

Another approach would be to require States to meet a required standard of funding, with penalties for States that did not comply. A third approach would be to establish a Federal reinsurance fund that would provide funds to State programs when their unemployment costs exceeded a norm. Both of these approaches would require complex and controversial legislation.

III. REACTIONS TO FINANCIAL CONSTRAINTS

As the financial demands of the Unemployment Compensation system became apparent in the late 1970s, several actions were taken to reduce its net impact on the Federal budget, both through revenue increases and spending reductions:

(1) Some benefits were subjected to income taxation in 1978, the extent of taxation was increased in 1982, and benefits were made fully taxable in 1986.

2/ The "high-cost multiple" is a ratio used by analysts to measure the size of a State program's trust fund credits relative to the potential need for funds in the State. The numerator of the ratio is the State's reserve balance divided by the State's covered wages for the prior 12 months. The denominator is the benefit cost divided by covered wages during the 12-month period for which this quantity was at its peak.

(2) Benefit eligibility was restricted for pensioners and certain unemployed former military personnel.

(3) The Extended Benefits program was sharply curtailed.

(4) The Federal unemployment tax was expanded, with increases in the taxable wage base and the tax rate in 1977 and 1983.

The Federal Government also began to apply financial pressure on States with Federal loans by establishing interest charges and forcing repayments to begin after a certain time had elapsed. This pressure led States to initiate numerous restrictions on eligibility. State actions included increasing the earnings required to qualify for benefits, tightening rules for disqualification of job leavers and those dismissed for misconduct, and increases in penalties for refusal of suitable work.

While many of these Federal and State actions had only marginal effects, their cumulative impact seems to be significant. I will now turn to some of the consequences of these actions.

IV. CONSEQUENCES OF RECENT POLICY INITIATIVES

A. Program Participation

The proportion of unemployed receiving benefits declined to all-time low levels in the 1980s, reaching 32 percent in 1987. Before 1975, the jobless beneficiary rate was usually between 40 and 60 percent. (See Chart 3.)

Research indicates that no one factor acting alone caused the decline in the jobless beneficiary rate. Rather, the evidence suggests that this decline was due to a combination of factors. First, the Federal and State policy changes just mentioned reduced benefit availability and discouraged applications. Second, the shift of jobs from manufacturing to other sectors reduced employment in the industries that traditionally had the highest rates of benefit receipt by jobless workers. Third, changes in the composition of the workforce, with more women and younger workers holding jobs, probably reduced participation. Fourth, a shift in unemployment among regions may have added to the trend.

B. Benefit Duration

Federal legislation in 1981 to narrow the conditions under which Extended Benefits are available has resulted in a situation today in which no State program offers benefits beyond its regular duration, which is usually 26 weeks. Thus, the additional 13 weeks available from Extended Benefits is not offered anywhere, even though five States had unemployment rates in excess of 8 percent in June 1988.

One consequence of this policy change was that far fewer payments of Extended Benefits were made during the 1981-82 recession than during the 1973-75 recession. (See Chart 4.) Although unemployment rates were higher in 1981-82, Extended Benefit payments were 48 percent less in constant dollars than in the earlier recession. Congress did enact the temporary Federal Supplemental Compensation program in 1982 to provide an extra cushion for the long-term unemployed. However, its benefits were also considerably less than those offered by the temporary benefit extension programs of the mid-1970s.

Although Extended Benefits have been pared back significantly, the number of beneficiaries exhausting regular benefits continues to run at about one third of initial claims, a rate that is typical of non-recession years. In 1986, regular program exhaustees totalled 2.7 million. The average duration of unemployment has actually lengthened, from slightly less than 12 weeks in the 1960s and 1970s to 15.6 weeks in the period from 1980 to 1986. This situation

has prompted the introduction of several bills that would modify the conditions necessary for a State to activate the Extended Benefits program.

C. Benefit Levels

The formulas used to compute benefit amounts from covered wages have been reduced in 20 States over the past 10 years, though the reductions have been marginal for the most part. State efforts to reduce benefit costs have been directed more at eligibility rules than at benefit levels. Some States have frozen benefit maximums, thereby lowering the real value of benefits for medium- and high-wage workers.

The CRS study estimates the level of benefits in each State in 1988 for three hypothetical unemployed workers at different wage levels. Benefit levels are measured in relation to the wage earned before the spell of unemployment--i.e., the wage-replacement rate of the unemployment benefit.

On a before-tax basis, the median State wage-replacement rate is 50 percent for workers who earn the average wage paid in each State. This rate was the original goal set forth by the designers of the Unemployment Compensation system. However, there is considerable variation among States in wages replaced, with rates as low as 35 and as high as 65 percent.

Because States apply maximums to benefits paid, wage replacement rates tend to be higher at lower wages and lower at higher wages. The CRS analysis shows that replacement rates range from 40 to 73 percent for a low-wage worker (earning $11,440 annually); for a high-wage worker ($44,812), rates range from 14 to 33 percent. If a replacement rate of 50 percent were used as a program standard, 49 States would meet it for the low-wage worker and 34 States for the average-wage worker, but no State has a rate that high for the high-wage worker.

To understand the degree of financial hardship imposed on an unemployed worker, it is also important to consider the degree to which Unemployment Compensation helps maintain a worker's annual income over an entire year. For most unemployed workers, a spell of unemployment will last only part of the year, typically 15 weeks. The analysis shows that the average-wage worker with a typical unemployment spell experiences a reduction in annual income of 10 to 17 percent depending on the State. The relative loss of annual income in a year with unemployment would be even less if the family has other earners or substantial unearned income. Longer unemployment spells would result in a lower maintenance of annual income, of course.

D. Economic Stabilization Policy

The Unemployment Compensation system is highly sensitive to changes in the business cycle, with benefit payments rising and revenues falling during an economic downturn and the reverse occurring during periods of economic growth. Thus, the system automatically exerts a fiscal effect that helps stabilize the economy. A comparison of net Unemployment Compensation spending to GNP shows that the system had a smaller countercyclical impact during the 1981-82 recession than during the 1973-75 recession. (See Chart 5.) However, the huge Federal deficits in the 1980s had the effect of relegating the automatic economic stabilization features of the Unemployment Compensation system to a secondary role.

Whether the economic stabilization role intended by the designers of Unemployment Compensation is regained in full depends, in part, on the future fiscal position of the Federal Government. If the budget deficit were to be reduced substantially or eliminated, Unemployment Compensation would exert a stronger influence on the overall direction of fiscal policy. However, even with substantial deficit reduction, the countercyclical role of Unemployment Compensation might remain diminished compared to earlier decades. Policy decisions to tax benefits and to restrict benefit availability have reduced the automatic response of the system to economic change. While the Government has other fiscal policy tools that can be used in lieu of Unemployment

Compensation, the alternatives generally take longer to implement and are more difficult to synchronize with the fluctuations in the business cycle.

V. TRAINING AND EMPLOYMENT SERVICES

During the 1980s, increased attention has been given to structural unemployment. The large numbers of dislocated workers have changed the clientele for employment and training programs. At the same time, the composition of the laborforce has changed, with fewer new entrants than in the recent past. As the availability of unemployment benefits beyond 26 weeks has been curtailed, interest in using Unemployment Compensation funds to provide employment and job training for the long-term unemployed has also risen.

Most training and employment efforts have been remedial in nature and have been successful at helping individuals with little prior workforce experience into employment. They have been less successful in helping people who have had stable work histories but need to acquire new skills. Those who advocate more training for dislocated workers feel that we now need to place more emphasis on higher skill training, given the changing needs of employers and the aging of the workforce.

The CRS report describes the various training and employment efforts now in operation or proposed that may be effective in reaching the long-term unemployed.

VI. PROGRAM ADMINISTRATION

The decline in Unemployment Compensation claimants since the 1981-82 recession, coupled with Federal efforts to reduce deficit spending, has led to reduced Federal grants (in constant dollars) for State program administration. These reductions have prompted criticism by the States concerning both the level of funding and the manner in which the funds are distributed by the Department of Labor.

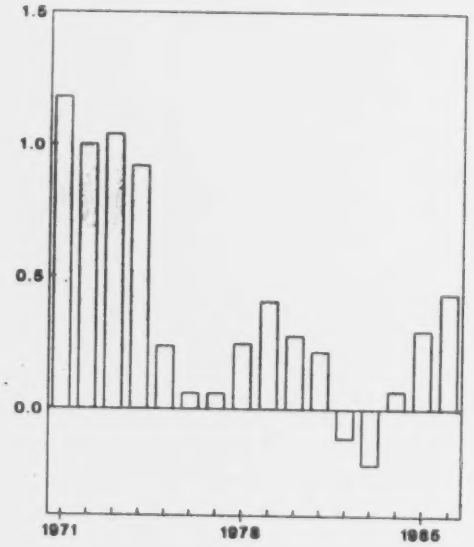
The nature of Unemployment Compensation administration, with States having the operational responsibility and the Labor Department the budgetary control, ensures that there will always be tension between the two levels of government over administrative funding. In the particular situation addressed in this study, it appears that downward pressures on funding have led to some deterioration in State activities necessary to the integrity of program operations. Whether funding levels have fallen too low relative to declining workloads in most States hinges on how overhead rates have changed as States' variable costs have declined.

The Department of Labor's (DoL's) procedures for allocation of funds among the States have been called into question by some States. While some methodological changes could be adopted to meet these criticisms, it is clear that 23 States consistently receive more for administration relative to what its employers pay in taxes and 16 States consistently receive less. The nature of this redistribution of Federal taxes among the States depends on program characteristics that are not subject to DoL's control. States that are "winners" tend to be either large, lightly populated States with high unit costs for program outreach or States with relatively high participation rates by the unemployed. Any reasonable allocation formula would probably continue a similar pattern unless a State's grants for administration were explicitly related to the taxes its employers pay.

VII. CONCLUDING REMARKS

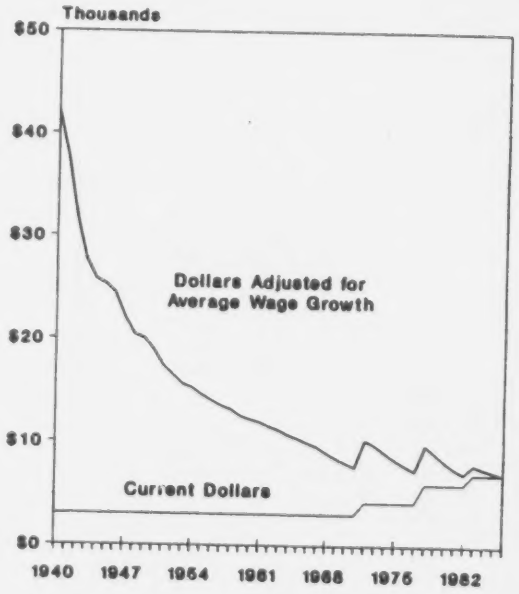
The CRS study of Unemployment Compensation issues contains more information than can be covered in these brief remarks. I will be glad to answer your questions about any aspect of the study.

Chart 1: Unemployment Compensation
High Cost Multiple,
1971-1986



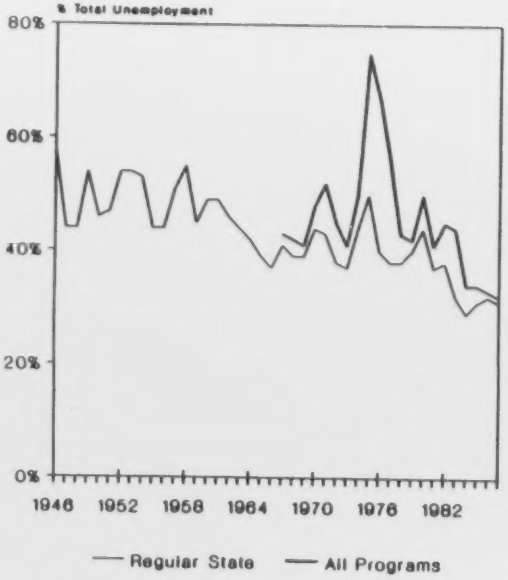
Source: Chart prepared by CRS based on data from DoL.

Chart 2: Federal Taxable Wage Base
In Current Dollars and Dollars Adjusted for
Average Wage Growth, 1940-1986



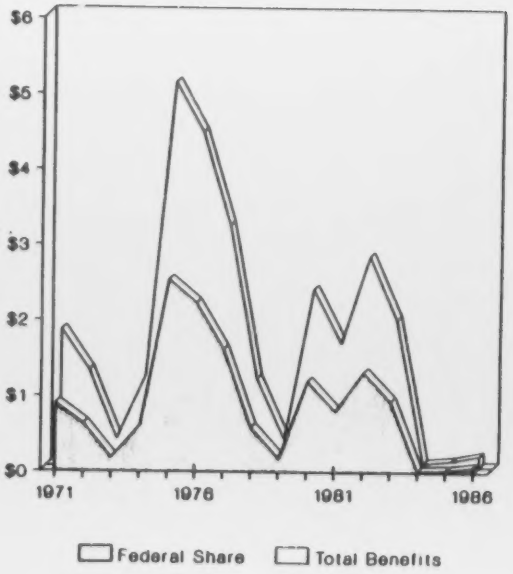
Source: Chart prepared by CRS based on data from DoL.

Chart 3: Unemployment Compensation Weeks Claimed As a Percent of Total Unemployment For Regular State Programs (1947-1987) and All Programs (1967-1987)



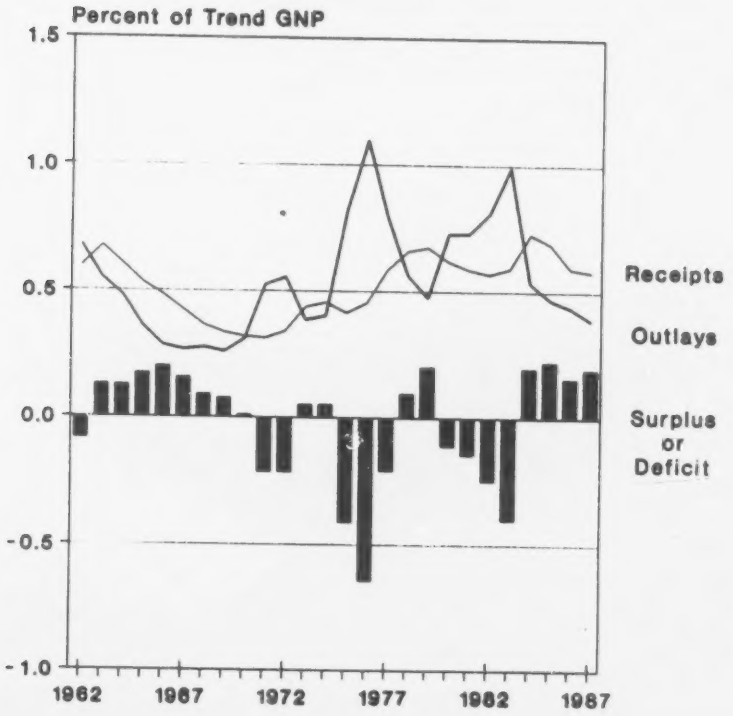
Source: Chart prepared by CRS based on data from U.S. DoL.

Chart 4: Federal-State Extended Benefits In Billions of Constant 1986 Dollars 1971-1986



Source: Chart prepared by CRS based on data from DoL.

Chart 5: Unemployment Compensation Receipts, Outlays, Surpluses and Deficits As a Percent of Trend GNP, Fiscal Years 1962 - 1987



Source: Chart prepared by CRS based on data from Historical Tables, Budget of the United States Government, Fiscal Year 1989.

Acting Chairman DOWNEY. We will take a brief recess to vote, and we will be right back.

[Recess.]

Acting Chairman DOWNEY. We will come back in order.

Mr. Storey, let me ask you quickly, you heard the director of the program testifying. Do you pretty much concur that this is a pretty ethereal question of what this gap is, and that it is kind of difficult to figure out?

Mr. STOREY. Well, I think that the description they gave, which is based mainly on the Mathematica study that they funded, is at the cutting edge of knowledge in this subject right now.

We did not undertake new research ourselves, although we think that there is a potential for doing more, using individual census survey data.

I would add one comment that was not touched on with the first witnesses. For those who think that the decline in participation is a major problem that ought to be corrected, you have to look at what seems to be driving it and ask, how can that be turned around?

A lot of things that have been cited as reasons for the decline did result from policy changes that may have had nothing to do with this issue; the changes had more to do with tax equity, with shoring up the States' finances, et cetera.

There is a tradeoff here, among different policy objectives, and that is what we are really seeing. This participation decline is a measure of one effect of that tradeoff.

Acting Chairman DOWNEY. What would you say to the idea that this trust fund is in good shape, or that it is not much to worry about in terms of recession; that there will be some more borrowing, but that is not necessarily bad?

Mr. STOREY. It is in better shape than it has been since before the 1974–75 recession.

However, it is in a shaky, precarious situation, I would say. The projections that I mentioned in my statement suggest that a moderate recession coming up in 1990 and topping out in 1991, with unemployment rates of somewhat over 7 percent would leave the system on fairly good terms.

But obviously we can't assume that that is the only thing that is in our future. If you studied a recession that was much worse, say one of the 1981–82 magnitude, then you would see once again, I am sure, that a majority of States would be in trouble.

Acting Chairman DOWNEY. You have studied this system for some time, I take it?

Mr. STOREY. Well, we began this particular study back in January.

Acting Chairman DOWNEY. And you have some familiarity with it?

Mr. STOREY. Yes.

Acting Chairman DOWNEY. What would make it a perfect system?

Mr. STOREY. Do you mean the financing of it?

Acting Chairman DOWNEY. Yes, the financing of it. Also, would we mandate national minimum benefits of replacement wages of 50 percent for high and low wage people?

Would we have a trust fund that would be capable of dealing with a long recession?

I mean, what would make it better?

Mr. STOREY. Well, I don't really have a grand design for the system. I think that if one is concerned mainly about financing, then the place to start is there and address some of the issues, some of the options, that may be available for strengthening the program financing further.

And that probably has to be done to improve the benefits.

Acting Chairman DOWNEY. Would that be raising the rate, or changing the wage base? Which would you suggest?

Mr. STOREY. Well, we identified three options. One would be to raise the taxable wage base. And you can clearly make a case that the wage base has fallen behind in real terms compared to where it began.

The others would perhaps be more complicated, because, in one case you would be setting a standard for the States to meet, and penalizing the States if they failed to meet it, and that obviously gets into a difficult Federal-State relationship.

The third option that I mentioned would be to establish a reinsurance fund, which would probably involve a very small increase in Federal taxes. But that money would have to be set aside and used in some systematic way to compensate States with excess costs.

How you determine what an excess unemployment cost is, again, gets into a difficult Federal-State negotiation.

Acting Chairman DOWNEY. Thank you, Mr. Storey. Good testimony.

The committee will next hear from its first panel, the 1978–80 National Commission of Unemployment Compensation, James M. Rosbrow, former executive director; the AFL–CIO, Bert Seidman, director, Department of Occupational Safety, Health and Social Security; and the Council of State Chambers of Commerce, Allen E. Owen, chairman, Employee Benefits and Relations Committee, who will be accompanied by William R. Brown, president.

Mr. Rosbrow, if you would begin.

STATEMENT OF JAMES M. ROSBROW, FORMER EXECUTIVE DIRECTOR, 1978–80 NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Mr. ROSBROW. Thank you, Mr. Chairman.

With your indulgence, I would like to take just about a minute or two to comment on some of the discussion when the representatives of the Department of Labor appeared.

Acting Chairman DOWNEY. Sure, please do.

Mr. ROSBROW. That had to do with Steve Wandner's statement that, in effect, the more unemployment compensation you have, the more unemployment it generates.

He did not attribute that to himself, but said rather that this is what the body of research demonstrates.

I would like to remind you, sir, and the subcommittee, that at the December hearings you conducted—I was ill and unable to attend at that time—Walter Nicholson who, with Walter Corson,

did practically all of the research in this field for Mathematica, over a series of years, and there was some mention of this general concept, and he says, and if I may I will read very quickly:

> Let me say first, I was pleased in the endurability of mythical numbers, almost a number we more or less invented in a book on Federal supplemental benefits, that each percentage increase in the IUR would lead to a three to five week increase in potential duration, seems to have made it into the bill.
>
> I don't know whether it is our number that made it into the bill. I am pleased to see that, although I wouldn't put such great faith in our mythical number.

I am happy that after all these years, since about 1974, the mythological nature of the number has been attested to by the person who developed it.

I think that unemployment compensation as a program has suffered disastrously, in the public's concept, over the last decade and a half because of that proposal.

Now, sir, if I may, I will turn to some brief comments on some of the recommendations of the National Commission on Unemployment Compensation.

One on which no particular action has been taken since 1980, when it was filed, and also give some comments which are largely my own, but I feel are in keeping with what was a demonstrated point of view of the Commission at that time.

And I would say at the very beginning that the various subjects had different kinds of countdowns as far as votes were concerned.

On the Federal taxable wage base, which the Commission felt was the absolute prime problem, there was at least a significant majority in every case, and a consensus in some of the relationships.

With respect to benefit standards, it was a very, very close vote, although the items that I will report today are those on which there was at least a majority in each case.

And if I may jump out of order because it was just referred to, the Commission did make a strong recommendation in the area of reinsurance of benefit costs. There was a great deal of attention at that time, a great deal of interest by the States themselves as well as the Federal Government. And yet here we are almost a decade later, and nothing in particular has been done.

The Commission by a voice vote, with only two nays, proposed a reinsurance program that would provide for a partial reimbursement, perhaps up to 30 percent of what would be established as additional cost, that was properly attributable to national conditions, rather than the particular economic activity in the State.

There has been no significant action in that area, although the States themselves have of course moved greatly toward a more sound reserve situation.

However, from my own observations, I would concur with the statements that were made earlier, that the rosy view is perhaps a bit too rosy if we run into the kinds of circumstances that we had, with the series of three successive recessions in which there wasn't adequate time for fund recovery, and for any kind of sound replenishment.

Now, sir, to the Federal taxable wage base, the Commission, by a series of votes ranging from 9 to 2 to 6 to 5, but always in a majority position, suggested an incremental approach to a Federal tax-

able wage base that would eventually be 65 percent of the average wage of all persons employed under coverage.

This would have brought it in 1983–84 to about $8,000; in 1985–86 to $10,400; in 1987–88 to $13,000; and in 1989–90 to 65 percent, and that last by a vote of 8 to 3, and would have also built into proposed legislation the requirement that the Congress would authorize a commission at that point to reexamine the entire issue of taxable wage base, with a report back to the Congress.

They felt that in any event it would appear that the 65 percent was an absolute need for long range financing of the program, but that at that point in time, it might be larger.

The original taxable wage base was total wages in the unemployment insurance system. And that was the same with Social Security.

In 1939 both Social Security and unemployment insurance were changed to a taxable wage base of $3,000.

Much later on, the Social Security taxable wage base was a result of an indexing process which continues to the present time. I don't have the exact figure, but I think the taxable wage base is in the neighborhood of $42,000, heading for another thousand or two increase next year.

And in unemployment insurance, it went from $3,000 to $3,600 to $4,200. These were limping changes; not anything very dramatic. And then to $6,000, and to $7,000.

The average annual wage of workers covered under the unemployment insurance system, based on 1987 wages, was $20,570.

In general a taxable wage base which fails to keep pace with the average annual wage in covered employment results in a shift in tax burden to low wage employment. And the imposition of higher tax rates to compensate for a lower State wage base reinforces the inequity.

Because what you have, in the case of those employers who have relatively low wage employees, their tax is applied to 100 percent of the payroll of that particular group of workers.

Whereas, when you get up to the $21,000 figure that we are talking about here, that would represent a payment of one-third on the basis of the $7,000 tax base that is now the limit.

I don't think there is any doubt that the proper approach to effective financing for the unemployment insurance system, if we are to remain with the Federal-State system, is a realistic taxable wage.

I have had personal experiences with State officials back in the period of the late 1970s, when several States were in very, very dire straits, and were not taking any particular steps to move out.

And I said to a former colleague from my own State government days, when are you going to move? "Your debt is cascading; it's just growing larger and larger."

He said: "When the Federal Government requires our State to increase the taxable wage base by increasing the Federal taxable wage base, we will increase it."

And I think we may well be approaching a similar situation again, whenever the inevitable slip in the economy takes place. There is just not enough money in reserve, and there is no sound way to resist the political pressures that would make individual

States stand out very likely in an unfortunate competitive situation with others unless the Federal Government chose to lead in this movement.

In the area of Federal benefit standards, and this is the one in which the Commission had the greatest difference among its members, a majority did recommend a maximum weekly benefit amount as a Federal standard—that a State have a maximum weekly benefit amount that would approach two-thirds of the average weekly wage of all workers in the preceding year.

This is by a vote of 7 to 5, and similarly, that the individual benefit amount of a Federal standard that would provide for almost all workers half of their individual average weekly wage in the preceding year. This again, 7 to 5.

These limitations, which are not really high, were proposed by every President from Eisenhower to Ford; legislation went up to Congress and was not enacted.

This is, without a doubt, a fire bell. It is an issue on which many, many employers, in particular, are very, very opposed.

And in the area of disqualifications, the Commission recommended by a vote of 8 to 2, with one abstaining, that a State may not provide for cancellation of benefit rights, unless for fraud or for disqualifying income, which of course is not really a cancellation; it's just a setoff.

And they also suggested that a number of Federal standards be eliminated, as being an unwarranted micromanagement of State principles.

There is a long list, now, of provisions relating to school employees, whether or not the payment of benefits should be made under given circumstances, particularly during vacation periods of individuals under contract.

The Commission felt very strongly, by a vote of 8 to 4, that this could be better managed by the individual States in keeping with their own customs, practices, and policies.

Unanimously, and this is among the very few in the report, the Commission recommended that a whole batch of standards that were dropped in as part of the 1976 amendments, be eliminated; again, not that these denials not be permitted by the States under State law, but that these were areas that were not appropriate for Federal action.

The denial of benefits to illegal aliens, which has become a considerable problem in its own right; the denial of benefits to professional athletes between seasons, or under contract to return, may seem like a very minor type of requirement for the Federal Government to have imposed; and the reduction of benefits by the amount of retirement income—this is a big one, and a very serious one, and one where many States at this juncture still have very, very strong feelings that this should be a matter for State policy.

With the extended benefit program, the Commission recommended, and be mindful that the major changes that have occurred in the Federal-State extended benefit program have occurred since the time of the Commission report—one, that a State trigger should be continued. This was before Federal action was taken to wipe out a State trigger, by a vote of 8 to 3, with one abstaining; that a program of Federal-State extended benefits be continued, by

a vote of 10 to 1; that the State trigger be maintained at 4 percent, with the elimination of the 120 percent of prior experience, which has acted in a negative manner in the payment of extended benefits, substantially; that a national trigger be retained at the level that was in effect at that time, 4½ percent insured unemployment rate, seasonally adjusted; that the present 50–50 matching of financing, Federal and State, be continued. That was by consensus vote with no dissent. That the eligibility requirements that apply for regular benefits should be those on EB claimants.

Instead of that, as you know sir, the Federal Government has gone on to legislate a variety of additional, more arduous, eligibility requirements, which States must then meet in their own law.

And while the requirement is only that those disqualifications apply to extended benefits they have backed into the State program in many, many cases.

And similarly that the suitable work provisions of State laws——

Acting Chairman DOWNEY. Mr. Rosbrow, could you summarize?

Mr. ROSBROW. Yes, sir.

I think the most of it I can summarize on the comment in the report on the role of the unemployment trust fund in the unified budget in which the Commission said the main focus of the Federal attention on UI financing has been cost cutting. This indicates lack of understanding of the intended countercyclical nature of the UI program, which is intended to have an excess of outgo over income during periods of higher than normal unemployment.

Thank you.

[The statement of Mr. Rosbrow follows:]

STATEMENT OF JAMES M. ROSBROW, FORMER EXECUTIVE DIRECTOR, NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Mr. Chairman, I am James M. Rosbrow, appearing here today as the former executive director of the National Commission on Unemployment Compensation, under the charimanship of the late Wilbur J. Cohen, a former Secretary of Health, Education and Welfare. The Commission was organized in early 1978 and expired as of October 1, 1980.

As directed in the Chairman's announcement of August 18, I will summarize briefly Commission recommendations in its Final Report on which no action has been taken, comment on their current appropriateness from my own point of view, and hold myself available for questions. In order to give a fair view of the Commission positions, I shall indicate the vote on significant issues.

1. FINANCING OF BENEFITS

(a) Federal Taxable Wage Base

Recommendation - That the Federal taxable wage base (FUTA) should approximate 65 percent of the average annual wage in covered employment. The 65 percent base should be phased in at 2-year intervals.

	Years	Percent of AAW	Estimated Amount
o	1983-1984	50	$8,000
	(Adopted by vote of 9 yeas, 2 nays)		
o	1985-1986	56	$10,400
	(Adopted by vote of 6 yeas, 5 nays)		
o	1987-1988	60	$13,000
	(Adopted by vote of 9 yeas, 2 nays)		
o	1989-1990	65	$16,100

Comment - The Report also recommended, adopted by vote of 9 yeas, 2 nays, that Congress authorize a study to evaluate in 1989 whether 65 percent of average weekly wage as a tax base would provide a financially sound program in the future.

At the time the Final Report was prepared the taxable wage base in FUTA was limited to $6,000. It was increased to $7,000, effective January 1, 1983 and remains at that rate. This is 34 percent of the average annual wage of $20,570 based upon CY 1987 wages. The net Federal tax rate of 0.7 percent. It also was increased, to 0.8 percent, beginning in 1983.

The 0.8 percent rate included a temporary surtax of 0.2 percent for the prupose of repaying certain advances from the general fund of the Treasury, required during recent recessionary periods. Under prior law, the surtax would have expired at the end of 1987 but was extended by Congress for an additional 3 years, continuing the gross FUTA tax rate at 6.2 percent and the net Federal tax at 0.8 percent.

At the present time, 37 States provide State taxable wage bases in excess of the FUTA $7,000 basee. All the remaining States do use $7,000.

In general. a taxable wage that fails to keep pace with the average annual wage in covered employment results in a shift in tax burden to low-wage employment and the imposition of higher tax rates to compensate for a lower State wage base reinforces the inequity.

For example, with a State taxable wage base of $7,000, an employer with a worker whose actual annual wage is $7,000, and a tax rate of 3 percent, pays a tax of $210, at a real tax rate of 3 percent. On the other hand, at the same 3 percent tax rate, and a wage of $14,000, he pays the same $210 in tax, with a real tax rate of 1.5 percent.

(b) Financing State Programs.

Recommendation - FUTA should be amended to provide that while a State may have contribution rates for new employers (less than 3 years of experience) that are different from the standard rate (currently 5.4 percent) they may not be less than the average contribution rate in the industry of the new employer. ADOPTED UNANIMOUSLY

Comment - Under existing Federal law a State may provide a rate as low as 1 percent for certain new employers after as little as 1 year. This may provide for a substantial under funding of benefit costs that may be attributable to such employers and also conditions of adverse competition for older employers.

(c) Reinsurance of Benefit Costs

Recommendation - That a reinsurance plan should be adopted that would provide for a partial reimbursement, not to exceed 30 percent of excess costs above some set percentage, with some participation in the plan by Federal funding. There was no agreement on all details of a plan, but a variety of guidelines were suggested. ADOPTED BY VOICE VOTE WITH 2 NAYS.

Comment - As State UI funds in general continue to move toward adequate reserve positions, this seems an ideal time for the Secretary of Labor to convene a broadly based and adequately staffed task force to develop legislative recommendations in this important area.

2. FINANCING OF ADMINISTRATION.

Recommendations - The Commission's lead recommendation was to index the FUTA taxable wage base to the average annual wage, to ensure adequate funding for grants to States for costs of administration.

Comment - The Department of Labor has recommended to Congress a change in the basic arrangement for funding that would decentralize to the State the taxing authority now included in FUTA for such purpose. If adopted, such a plan would reduce greatly current friction relating to the adequacy and method of allocation of Federal grants to States. Some problems would remain:

a. While many States could receive greater amounts from this decentralization than in present grants, many other States would suffer great reductions, causing a need for funding from other State sources.

b. If the Federal taxable wage base is not increased, the inadequacy of funding in the so-called "lower" States would be aggravated.

3. FEDERAL BENEFIT STANDARDS.

Recommendations.

(a) Eligibility.

That State laws move gradually to provide that no more than 39 weeks of base period earnings be required for an individual to qualify for 26 weeks of benefits. ENDORSED BY A MAJORITY BUT NOT CLEARLY A RECOMMENDATION FOR A FEDERAL STANDARD.

(b) Maximum Weekly Benefit Amount.

A State shall have a maximum weekly benefit amount that is at least two-thirds of the average weekly wage of all workers in the preceding year. APPROVED BY VOTE OF 7 YEAS, 5 NAYS.

(c) Individual Benefit Amount.

A State shall provide for each worker a weekly benefit amount (up to the State maximum) which averages at least 50 percent of the worker's average weekly wage. APPROVED BY VOTE OF 7 YEAS, 5 NAYS.

Comment on (b) and (c) - Recommended by every President from Eisenhower to Ford. This recommendation has particular relevance at the present time since all UI benefits are now subject to Federal income tax.

(d) Disqualifications and Continuing Eligibility.

(1) Federal standard that State may not provide any reduction of benefit rights except for fraud or receipt of disqualifying income. APPROVED BY VOTE OF 8 YEAS, 2 NAYS, 1 ABSTAINING.

Comment - Historically, there has been a strong consensus by postponement of benefits as a disqualification rather than cancellation; except for fraud.

(e) Federal Eligibility Standards.

(1) School Employees. That all Federal standards be eliminated, to give States discretion on how to address this subject. APPROVED BY VOTE OF 8 YEAS, 4 NAYS.

(2) UNANIMOUSLY RECOMMENDED removing the following FUTA requirements as being areas for appropriate State decision:

- Denial of benefits to illegal aliens.
- Denial of benefits to professional athletes between seasons who are under contract to return.
- Reduction of benefits by amount of retirement income.

Comment - The recommendation does not propose that benefits may not be reduced, but rather that States are best equipped to make these policy decisions.

4. FEDERAL-STATE EXTENDED BENEFIT PROGRAM (EB)

Recommendations.

(a) Present program, with some necessary changes, should be retained. APPROVED BY VOTE OF 10 YEAS, 1 NAY.

(b) State trigger should be 4 percent insured unemployment rate (IUR), seasonally adjusted 13-week moving average, eliminating the 120 percent of two preceding years requirement. APPROVED BY VOTE OF 8 YEAS, 3 NAYS, 1 ABSTAINING.

(c) National trigger should be maintained at a 4.5 percent seasonally adjusted IUR, for 13-week moving average. APPROVED BY VOTE OF 7 YEAS, 5 NAYS.

(d) Present 50 percent each Federal and State funding should be continued. CONSENSUS

(e) Eligibility requirements beyond those that appy for regular benefits should not be imposed on EB claimants. APPROVED BY VOTE OF 10 YEAS, 1 NAY.

(f) Suitable work provisions of State laws shall apply as well to the EB program. CONSENSUS

Comment

Rather than action in the directions proposed in the Final Report, all of the many legislative changes adopted since September 1980 have been of negative impact on the EB program, with the result that it is no longer a viable program except for possible usage at the depth of a recession. These actions include the following:

- September 1980
  - State law must require that EB not be payable for more than 2 weeks unless the EB trigger is on in both agent and paying States.
- December 1980
  - Eliminated the Federal 50 percent matching share for the first week of EB in any State which did not have a waiting period of at least 1 week in its regular UI law.
  - Required State law to disqualify EB claimant previously disqualified under State law unless termination of State disqualification had been based upon subsequent employment.
  - State law must deny EB to claimant who failed to accept suitable work or failed to search for suitable work -- as defined -- terminated only after 4 weeks employment with earnings of at least 4 times weekly benefit amount.
- August 1981
  - Eliminated national trigger.
  - EB claims were excluded from calculation of the IUR.
  - State trigger rates were made higher:
    a. Mandatory trigger raised from 4 percent IUR and 120 percent of prior 2 years to 5 percent and 120 percent.
    b. Optional 5 percent trigger (without 120-percent factor) raised to 6 percent.
  - Required that State law limit EB to claimants who had at least 20 weeks (or equivalent) in base period earnings.
  - Provided for reduction of EB entitlement by weeks of any TRA entitlement.
- September 1982
  - Eliminated 50 percent matching Federal share of EB on that part of an EB payment not based upon a benefit structure in which benefit amounts are rounded down to the next lower dollar.

5. SUPPLEMENTARY EXTENDED BENEFITS

Recommendations.

a. Commission supports principle of a program to individuals who have exhausted both regular and EB benefits, to start generally at 40th week of unemployment. APPROVED BY VOTE OF 8 YEAS, 3 NAYS.

b. Program should include a State trigger. APPROVED BY VOTE OF 8 YEAS, 3 ABSTAINING.

c. Should also include national trigger. Approved by show of hands, 6 TO 4.

d. There should be no labor market area triggers. CONSENSUS

e. Should be financed from Federal general revenues. ADOPTED BY VOTE OF 8 YEAS, 3 ABSTAINING.

f. Should be enacted without a termination date, subject to review by Congress after 2 years in operation. ADOPTED BY VOTE OF 7 YEAS, 4 NAYS, 1 ABSTAINING.

Comment.

With respect to area triggers, the Report stated:

"The Commission is opposed to using local labor market areas as a basis for triggering Special Unemployment Benefit payments on an areawide basis. In addition to major and costly administrative considerations, there are also serious questions related to equity among claimants."

On the issue of supplementing extended benefits beyond the permanent EB program, Congress acted, on an ad hoc basis, to initiate the Federal Supplemental Compensation (FSC) program lasting from September 1982 to April 1985. The legislation was adopted during a period of intense concern for the mounting level of unemployment and it underwent a bewildering series of changes in eligibility and duration, resulting in a condition of confusion not only for claimants but also for State UI agency employees. While strongly commending the social purpose and accomplishments of the FSC program, I believe a cleaner and clearer operation would have been provided by an in-place supplemental benefits program, able to be publicized adequately and administered with greater ease by pretrained staff in the State UI agencies. I could also suggest that much of the pressures for various extensions of the FSC program might have been eased had an effective Federal-State EB program been in place instead of the sadly circumscribed program in current law.

6. ROLE OF THE UNEMPLOYMENT TRUST FUND IN THE UNIFIED BUDGET:

Recommendation

The Federal Unemployment Trust Fund, which includes the State trust fund accounts, should not be included in any totals of Federal income and disbursements in the unified Federal budget.

Comment

The Reported stated: "The main focus of the Federal attention on UI financing has been cost-cutting. This indicates lack of understanding of the intended countercyclical nature of the UI program, which is intended to have an excess of outgo over income during periods of higher than normal unemployment."

It was recommended that an independent Commission, including 3 cabinet members, be established to administer the Federal Unemployment Trust Fund, which would be removed from the unified Federal budget. This would be generally consistent with arrangements established for the Social Security Trust Fund.

Acting Chairman DOWNEY. I would just tell the other panelists that if you could summarize your statements so that if I have some questions, or if other members have them, we can ask them.

Try, if you can, to hold your comments to 5 minutes.

Mr. Owen.

STATEMENT OF ALLEN E. OWEN, CHAIRMAN, EMPLOYEE BENEFITS AND RELATIONS COMMITTEE, COUNCIL OF STATE CHAMBERS OF COMMERCE, AND DIRECTOR OF LEGISLATIVE AFFAIRS, WESTPOINT PEPPERELL, INC., ACCOMPANIED BY WILLIAM R. BROWN, PRESIDENT, COUNCIL OF STATE CHAMBERS OF COMMERCE

Mr. OWEN. Mr. Chairman, my name is Allen Owen. I appear here as chairman of the Employee Benefits and Relations Committee of the Council of State Chambers of Commerce. And I am also director of legislative affairs for WestPoint Pepperell, Inc., headquartered in West Point, GA.

WestPoint Pepperell manufactures and markets a wide variety of textile products for apparel, household and industrial markets, and we have approximately 37,000 employees located in 41 States.

Accompanying me is William R. Brown, president of the Council of State Chambers of Commerce.

We appreciate the opportunity to appear here today to discuss the 1980 recommendations of the National Commission on Unemployment Compensation which were generally ignored by both the Congress and the States. We believe the recommendations were ignored because they were not timely and failed to recognize the strength of our current Federal-State system.

In 1980, a majority of the National Commission recommended a shift of significant program responsibilities from the States to the Federal Government at a time when the country was beginning a general trend in the opposite direction. We believe this continued shift of responsibility from the Federal Government has been a proper response, both philosophically and practically. Today, the States are in a much better position to meet the responsibilities than is the Federal Government.

In this regard, we believe that the supplemental statements of Commissioners Bivins, Cooper, Crosier, and Hill found in the Commission report are just as valid today as they were in 1980.

In fact, a major problem which the employment security system faces today results from the exercise of too much Federal control—that is the failure of Congress to appropriate adequate administrative funding for the States, even though the Federal UI tax is more than adequate to cover these expenses.

I would like to briefly comment on some major proposals of the Commission, if I might, Mr. Chairman.

Let's look at the benefit provisions. The Federal benefit standards, in our opinion, are not desirable. Specifically, the previously named Commissioners, joined by Commissioner Sanchez in their supplemental statement, said:

> The Federal benefit standards recommended by a majority of the Commission are neither desirable nor necessary. Their adoption would signal a strong move toward federalization of a program that, in our opinion, has been successful because Federal intrusion has been limited.

Let's look at the work search requirements. States should require an active search for work. We also agree with the supplemental statement of Commissioners Bivins, Cooper, and Hill objecting to the majority recommendation that the States eliminate specific actively seeking work availability requirements. We agree that this should not be a perfunctory test, but a genuine actively seeking test.

Duration of benefits. The duration of the Federal/State UC program should be limited to 39 weeks as supported by Commissioners Bivins, Cooper, and Hill in their supplemental statement, and not the 65 weeks recommended by the majority. As these Commissioners point out:

> The additional benefits this recommendation would provide should be divorced from the system. The general revenue funding is one step in the right direction, but there should be other steps. There should be additional qualifying conditions, perhaps including an income test. Also there should be greater emphasis on retraining and/or relocation.

Indexing the Federal wage base. Indexing the Federal taxable wage base is just not justified, Mr. Chairman. We believe that the supplemental views of Commissioners Cooper and Hill are still correct in opposing increasing and indexing the Federal taxable wage base. In fact, it is even more objectionable now than it was in 1980, since the Congress is failing to appropriate adequate administrative funds for the State Employment Security programs, even though the present tax base is producing more than enough funds. Employers are especially aggravated since some States are now imposing taxes on them to pay State administrative costs that the Federal tax is supposed to cover.

This statement has attempted to address only what we consider some of the major recommendations of the 1980 National Commission on Unemployment Compensation report. Silence on other matters should not be interpreted as signifying either agreement or disagreement.

Subsequent events have demonstrated that the Commission's major recommendations were not timely when they were made in 1980, Mr. Chairman, and they are even less timely today.

Thank you, sir.

[The statement of Mr. Owen follows:]

STATEMENT OF ALLEN E. OWEN
TO
HOUSE WAYS & MEANS SUBCOMMITTEE
ON
PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION
In Behalf of the Employee Benefits & Relations Committee
of
The Council of State Chambers of Commerce
September 15, 1988

I am Allen E. Owen and I appear here today as Chairman of the Employee Benefits and Relations Committee of the Council of State Chambers of Commerce. I am also Director of Legislative Affairs for WestPoint Pepperell, Inc. of West Point, Georgia.

WestPoint Pepperell manufacturers and markets a wide variety of textile products for apparel, household and industrial markets. We have approximately 37,000 employees in 41 States.

Accompanying me is William R. Brown, President of the Council of State Chambers of Commerce.

We appreciate the opportunity to appear today to discuss the 1980 recommendations of the National Commission on Unemployment Compensation which were generally ignored both by the Congress and the States. We believe the recommendations were ignored because they were not timely and failed to recognize the strength of our Federal-State system.

In 1980 a majority of the National Commission recommended a shift of significant program responsibilities from the States to the Federal government at time when the country beginning a general trend in the opposite direction. We believe that the continued shift of responsibility from the Federal government has been a proper response both philosophically and practically. Today the States are in a much better position to meet these responsibilities than is the Federal government.

In this regard we believe that the supplemental statements of Commissioners Bivins, Cooper, Crosier, and Hill found in the Commission Report are just as valid today as they were in 1980.

In fact a major problem which the Employment Security system faces today results from the exercise of too much Federal control - that is the failure of Congress to appropriate adequate administrative funding for the States even though the Federal UI tax is more than adequate to cover these expenses.

COMMENTS ON MAJOR SPECIFIC PROPOSALS

Federal Benefit Standards Not Desirable

Specifically the above Commissioners joined by Commissioner Sanchez in their supplement statement (pp.190-191) said, "The Federal benefit standards recommended by a majority of the Commission are neither desirable nor necessary. Their adoption would signal a strong move toward federalization of a program that, in our opinion, has been successful because Federal intrusion has been limited...."

States Should Require "Active Search for Work"

We also agree with the supplemental statement of Commissioners Bivins, Cooper, and Hill (pp. 191-192) objecting to the majority

recommendation that the States eliminate specific "actively seeking work" availability requirements. We agree that this should not be a perfunctory test, but a genuinely active seeking. In times such as the present when there are general and widespread labor shortages in many areas and jobs such an active search in many cases is likely to produce results that are desirable for everyone concerned.

Maximun Duration of Benefits Should be Limited to 39 Weeks

The duration of the Federal/State UC program should be limited to 39 weeks as supported by Commissioners Bivens, Cooper, and Hill in their supplemental statement (p.192) and not the 65 weeks recommended by the majority. As these Commissioners point out, "The additional benefits this recommendation would provide should be divorced from the system. The general revenue funding is one step in the right direction, but there should be other steps. There should be additional qualifying conditions, perhaps including an income test. There should be greater emphasis on retraining and/or relocation."

Indexing the Federal Taxable Wage Base Is Not Justified

We believe that the supplemental views of Commissioners Cooper and Hill (pp.192-193) are still correct in opposing increasing and indexing the Federal taxable wage base as a means of generating additional revenue to fund the Federal portion of UC benefits and administrative costs. In fact, it is even more objectionable than it was in 1980 since the Congress is failing to appropriate adequate administrative funds for the State Employment Security programs even though the present tax base is producing more than enough funds. Employers are especially aggravated since some States are now imposing taxes on them to pay State administrative costs that the Federal tax is supposed to cover.

CONCLUSION

This statement has attempted to address only what we consider some of the major recommendations of the 1980 National Commission on Unemployment Compensation Report. Silence on other matters should not be interpreted as signifying either agreement or disagreement.

Subsequent events have demonstrated that the Commission's major recommendations were not timely when made in 1980. They are even less timely today !

Acting Chairman DOWNEY. Thank you, Mr. Owen.
Mr. Seidman.

STATEMENT OF BERT SEIDMAN, DIRECTOR, DEPARTMENT OF OCCUPATIONAL SAFETY, HEALTH AND SOCIAL SECURITY, AMERICAN FEDERATION OF LABOR, AND CONGRESS OF INDUSTRIAL ORGANIZATIONS [AFL–CIO], AND FORMER MEMBER, NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION, ACCOMPANIED BY JAMES ELLENBERGER, SPECIALIST ON UNEMPLOYMENT INSURANCE, AFL–CIO

Mr. SEIDMAN. Thank you, Mr. Chairman.

I'm pleased to be here today on behalf of the AFL–CIO to testify on the tremendous need to reform this Nation's system for providing temporary and partial income support to the jobless in our society.

Let me say, Mr. Chairman, that with me is James Ellenberger, who is the specialist on unemployment insurance, on the staff of the AFL–CIO. And also I wish to say that I have a longer statement which I respectfully request be included in the record of the hearing.

Acting Chairman DOWNEY. Without objection, any of the materials that the panelists wish will be put into the record.

Mr. SEIDMAN. Mr. Chairman, I had the privilege of being one of the members of the National Commission on Unemployment Compensation. And I wish to commend you and the members of this subcommittee for holding this hearing on their recommendations.

Unlike the previous witness, I thought they were timely then, I think they are even more timely today, and I think it is very important that we give serious consideration to those recommendations in the light of what has happened since that report was adopted, and in the light of the situation of the unemployment compensation system today.

May I also say, with a good deal of sadness, that I wish that we could have had Wilbur Cohen, our chairman, with us today. I think he would have made a tremendous contribution to this hearing.

Today, the vast majority of jobless workers are not receiving benefits. There are no long-term unemployed who are receiving extended benefits. And benefit levels, for the small minority of unemployed workers who are receiving benefits, are far below what is necessary to maintain even minimally accepted standards of living.

As had already been said, State benefit trust funds are woefully inadequate to meet the demands of the next recession. And State administration of the program is being held hostage by the Federal budget process, due to the inclusion of the trust funds in the unified budget.

As you well know, Mr. Chairman, the AFL–CIO has been a frequent critic of the Federal-State unemployment insurance program, and the unconscionable failure of this system to provide benefits to the vast majority of the unemployed. And 1988 marked the fourth straight year in which this system has set progressively worse records in terms of the ratio of the jobless actually receiving benefits from the UI system.

Last year, just over 31 percent of the unemployed received benefits. There is something about this one-third figure that seems to occur over and over again in the unemployment insurance system. Only one-third of the unemployed get unemployment insurance. Only one-third of the wages of unemployed workers are replaced by benefits. And only one-third of wages are subject to taxation. This is far from adequate to provide the kind of unemployment insurance system that this country needs.

Of the nearly 7½ million workers who were unemployed in a typical month last year, over 5 million, nearly 70 percent, got nothing in the way of income protection from the unemployment insurance system. Contrast that with the nearly 76 percent of the unemployed who got benefits in 1975, or even the over 50 percent who got benefits in 1980 at the time that the National Commission issued its final report.

Last month, just 29.4 percent of the unemployed were receiving benefits under all unemployment insurance programs. One million workers who need and want jobs and have been unemployed for over 6 months, not a single one of them is receiving unemployment insurance benefits under the extended benefits program. Or I should say the extended benefits nonprogram because that's really what it is.

This treatment of the long-term unemployed calls out for the kind of reform that has been offered by Congressman Pease and others in H.R. 2676, the Extended Unemployment Insurance Reform Act.

The report of the Commission contained a remarkable introductory statement by the late Wilbur J. Cohen, its Chairman. And in that report, Dr. Cohen said, "The volatile and corrosive effect of uncompensated unemployment can cost society much more than the cost of a reasonably improved unemployment compensation system. I urge the Congress to beware of the traditional attack on a particular proposal as 'an entering wedge of federalization.' The issue is no longer the question of Federal standards in the system as a matter of principle. There are Federal standards in the Federal law." And the question he suggested is, "What are appropriate standards in the Federal laws and appropriate standards in the State laws?"

Your announcement for this hearing, Mr. Chairman, correctly pointed out that not only were many of the recommendations of the National Commission were ignored, but the policies that have been adopted run counter to and are opposite to those recommendations. When the need was the greatest in the midst of the 1981–82 recession, the Reagan Administration pushed through policies, policies which have been described by previous witnesses, that had the effect of reducing access to unemployment insurance and the adequacy of benefits, when what should have been done was to expand coverage and increase benefits.

As you noted, and as was pointed out by the General Accounting Office in their statement before the Subcommittee on Employment and Housing of the House Committee on Government Operations in an earlier hearing, now is the time to consider reforms before another crisis occurs.

Mr. Chairman, the Commission made major recommendations on all of the fundamental areas of the Nation's UI system. I will not attempt to cover all of those issues, but I do wish to summarize the recommendations of the AFL–CIO on what we consider to be the major issues.

One, financing of benefits. We have long argued for indexation of the Federal taxable wage base which was recommended by the National Commission as the single most important action which could be taken to remove the UI system from fiscal jeopardy and to reverse the decline in the percentage of jobless workers receiving support from the system.

We also support as a way of shoring up the financing of the system a reinsurance plan as recommended by the National Commission. And may I also say, Mr. Chairman, that that kind of proposal was given serious consideration in the Congress in the 1970s, as I recall. There was a bill that was introduced by Senator Javits. I believe there was another bill that was introduced by others. And I think that this is one type of proposal which deserves serious reexamination.

Second, financing of administration. The AFL–CIO believes at a minimum two actions suggested by the Commission are required to relieve the serious problems of underfunding of the administration of the UI system. First, indexing the Federal taxable wage base, which would restore fiscal soundness to State benefit trust funds, but would also provide more adequate levels of administrative funds to support programs to aid and assist the unemployed.

And, second, as others have said, the UI trust funds, both the State benefit trust funds and the FUTA trust funds should be removed from the unified Federal budget as recommended by the Commission.

Third, promoting efficient administration. One of the Commission's recommendations that needs to receive serious consideration is that administrative grants should be made available to the States to fund an Office of Ombudsman in each State to provide claimant assistance and counseling. The AFL–CIO believes that this program should include the establishment of an independent claimant representation section relating to each State agency.

The Commission recommended Federal benefit standards, and we strongly support that recommendation.

The Commission recommended that there should be a 50 percent wage replacement rate and the maximum weekly benefit amount should be at least two-thirds of the State average weekly wage.

We in the AFL–CIO believe that adoption of such standards is urgently needed, but should be gradually increased to 66⅔ percent of the individual's wage up to 75 percent of the State average weekly wage.

May I also say, Mr. Chairman, that we examine each year the percentage of replacement of wages that unemployment insurance benefits are. And we compare the average weekly benefit with the average weekly wage. And in recent years, including last year, that figure was approximately 35 percent.

Federal eligibility standards. The Commission made relatively few recommendations in this area, but it is one which needs urgent attention. All agricultural workers should be covered by the UI

system. We see no reason to discriminate against agricultural workers.

Incredibly, as part of the 1983 Social Security Amendments, Congress required States to deny UI benefits to non-professional-school employees between academic years. The AFL–CIO believes that there should be a Federal standard prohibiting discrimination against any category of employee. Workers should be treated under the law as individuals and not as members of arbitrary categories.

While the Commission recommended that no more than 39 weeks of work be required for 26 weeks of benefits, we urge Congress to establish a maximum requirement for eligibility of 26 weeks of benefits for 20 weeks of employment as an alternative or, as an alternative, a flat dollar requirement.

Now I turn to the question of benefits for the long-term jobless. We urge the Congress to act swiftly to enact H.R. 2676, the extended benefit reform measure sponsored by Mr. Pease and others. We regard this measure, however, as short-term reform. We have urged, for a long time, although this was not a recommendation of the Commission, that there should be a permanent non-triggered program of extended benefits for long-term unemployed workers who have had a firm attachment to the labor force. Workers need unemployment insurance just as much if they are in low unemployment States as in high unemployment States.

We think that such benefits, in conjunction with regular State benefits, should be available for at least 65 weeks.

We join with others in recommending the adoption of the proposal of the National Commission for the removal from the unified Federal budget of all unemployment trust funds, including State trust fund accounts. We do not think that they belong in the Federal budget or should be considered in the Federal budget.

Finally, we think that subjecting UI benefits to Federal income taxation was the equivalent of a federally mandated benefit reduction. Benefits are already far below the levels recommended by the Commission. They have been further eroded by taxation. And we think the Congress should repeal those provisions.

Mr. Chairman, the AFL–CIO congratulates you and this subcommittee for examining the need to reform the Nation's Federal-State unemployment compensation system, and we stand ready to work with you and all Members of Congress to put in place a program to serve the interest of the unemployed, of employers, and of our changing economy.

Thank you, Mr. Chairman.

[The statement of Mr. Seidman follows:]

STATEMENT OF BERT SEIDMAN, DIRECTOR
DEPARTMENT OF OCCUPATIONAL SAFETY, HEALTH AND SOCIAL SECURITY
AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS
BEFORE THE SUBCOMMITTEE ON PUBLIC ASSISTANCE
AND UNEMPLOYMENT COMPENSATION
OF THE HOUSE COMMITTEE ON WAYS AND MEANS
ON REFORM OF THE UNEMPLOYMENT COMPENSATION PROGRAM

September 15, 1988

Mr. Chairman, my name is Bert Seidman and I am pleased to be here today on behalf of the AFL-CIO to testify on the tremendous need to reform this nation's system for providing temporary and partial income support to the jobless in our society. I am also appearing before this subcommittee as one of the members of the National Commission on Unemployment Compensation which issued its Final Report to the President and to the Congress on June 30, 1980 - more than eight years ago.

The Commission's work was remarkable in many ways. It was the first, and remains the only, comprehensive review of the UI system in the 53 year history of the program. It brought together representatives of employers, employees, and the public to make specific suggestions aimed at improving our system of insuring against the tragedy of unemployment.

Today, eight years after the Final Report laid out the measures to be taken to improve the program, our UI system is in even worse shape. The vast majority of jobless workers are not receiving benefits. There are no long-term unemployed eligible for extended benefits. Benefit levels, for those getting them, are far below what is necessary to maintain minimally accepted standards of living. State benefit trust funds are woefully inadequate to meet the demands of the next recession. State administration of the program is being strangled and held hostage by the federal budget process due to the inclusion of the trust funds in the unified budget.

As you and the members of this subcommittee are well aware, the AFL-CIO has been a frequent and vocal critic of the federal/state unemployment insurance program and the unconscionable failure of this system to provide benefits to the vast majority of the unemployed. 1988 marked the fourth straight year in which this system has set progressively worse records in terms of the ratio of the jobless actually receiving benefits from the UI system. Last year, just over 31 percent of the unemployed got benefits. This means that out of the nearly seven and a half million who were unemployed in a typical month last year, over five million (nearly 70 percent) got nothing in the way of income protection from the UI system. Contrast that with the nearly 76 percent of the unemployed who did get benefits from the system in 1975 or even with the over 50 percent who got support from the program when the National Commission issued its final report in 1980. This tragedy for millions of jobless workers and their families continues; last month, August 1988, just 29.4 percent of the unemployed were receiving benefits under all unemployment insurance programs.

One of those programs is the Extended Benefit program. Today, despite jobless rates that have been consistently higher than during any other period of economic recovery, and despite the fact that close to one million Americans who need and want jobs have been unemployed for over six months, the Extended Benefit program is not in effect in a single state. This treatment of the long-term unemployed is scandalous and it calls out for reform such as that offered by Congressman Pease and others in H.R. 2676 - the Extended Unemployment Insurance Reform Act.

As one who participated actively in the deliberations and work of the National Commission, I want to refer you to the words of its Chairman, the late Wilbur J. Cohen. In his Introductory Statement to the Final Report, Dr. Cohen said, "The volatile and corrosive effect of uncompensated unemployment can cost society much more than the cost of a reasonably improved unemployment compensation system... I urge the Congress to beware of the traditional attack on a particular proposal as 'an entering wedge of federalization.' The issue is no longer the question of Federal standards in the system as a matter of principle. There are Federal standards in the Federal law. I suggest it is now a question of what are appropriate standards in the Federal law and appropriate standards in State laws."

Mr. Chairman, your announcement for this hearing correctly pointed out that not only were many of the recommendations of the National Commission ignored but that the policies that were adopted ran counter to and were the opposite of those recommendations. Incredibly, at the very time when the need was the greatest, in the midst of the recession of 1981-1982, the Reagan Administration pushed through policies that had the effect of reducing access to and adequacy of benefits when what should have been done was to expand coverage and increase benefits. It is appropriate, as you noted and as was pointed out by the General Accounting Office in their statement before the Subcommittee on Employment and Housing of the House Committee on Government Operations in July of this year, that now is the time to consider reforms before another crisis occurs and that because current policy has had the effect of encouraging a reduction or withdrawal of benefits for many workers, Congress should craft measures to improve adequacy while not eroding benefit eligibility.

The Commission made major recommendations on all of the fundamental areas of the nation's UI system. You have asked that we comment on at least the following.

I. Financing of Benefits

The AFL-CIO has repeatedly argued before this committee and others that the unemployment insurance system has been deliberately underfunded in relation to needs and that that underfunding is used as the rationale for restricting access to benefits and keeping wage replacement rates low. Originally, all covered wages were subject to the Federal Unemployment Tax Act (FUTA). The ratio of wages subject to UI taxes was 98 percent in 1939 while today it is just 34 percent. The Federal taxable wage base is just $7,000.

The Commission recommended that the taxable wage base be set as a percentage of the national average wage in covered employment so that as wages went up the base would increase automatically. It was suggested that this indexing be phased in over a period of seven years so that the taxable wage base would equal 65 percent of the average annual wage by 1989. If that recommendation had been adopted, the taxable wage base would be at $13,370 on January 1, 1989. Today, there are just four states with a taxable wage base higher than $13,200. The vast majority (35 states) are below $10,000, and sixteen states remain at the Federal level of $7,000. Those sixteen states, which are 32 percent of the jurisdictions in the country, account for nearly 45 percent of all workers in UI covered employment. Financial inadequacies in the system have been the driving force for policies that have been adopted at the Federal level that have encouraged and even required actions by the states that have reduced or eliminated coverage of jobless persons by the UI system.

Frequent recessions in our economy over the past fifteen years along with extraordinary and continuing high levels of unemployment, despite economic recovery, have caused massive indebtedness as states were forced to borrow from the Federal government to meet their UI obligations. By the end of the 1970's, eleven states owed the Federal government $3.8 billion. Even worse, failure to adopt the recommendations of the National Commission meant that by the end of the first quarter of 1983, indebtedness had grown to 28 states owing $13.7 billion.

This failure to put the financing of the system on firm footing created a vacuum that was used by the Reagan Administration to push for so-called "solvency" requirements that have had the brutal and callous effect of denying UI benefits to millions of unemployed workers. Yet employer taxes, which were supposed to increase as part of the solvency requirements, have declined by two measures. In the past ten years, both the average employer tax rate and taxes as a percentage of total wages have dropped. UI taxes as a percentage of total wages dropped from 1.35 percent in 1978 to just 1 percent in 1987. Similarly, the average employer tax rate dropped during the same period from 1.29 percent to 1.14 percent.

In order to build adequate reserves to protect the unemployed during future recessions, the GAO has recommended the establishment and enforcement of adequacy standards, the offering of financial incentives to states to encourage the building of reserves, and the raising of the federal tax to help build those reserves. We strongly support those recommendations.

The AFL-CIO has long argued for indexation of the Federal taxable wage base as the single most important action to remove the UI system from fiscal jeopardy and to reverse the decline in the number of jobless workers who receive support from the UI system. We also support the reinsurance plan recommended by the National Commission.

II. Financing of Administration

Shortfalls in funding the administration of state UI programs in recent years have created enormous problems for state agencies charged with the responsiblity of providing assistance and guidance to unemployed persons. Since 1981, there has been a 34 percent reduction in the number of state employees working in unemployment insurance and job service offices across the country - depriving jobless workers of highly trained and skilled people to help them in their time of need. There have been large numbers of local UI and ES offices closed down due to inadequate funding - forcing the unemployed to travel far from their homes and communities to seek the help to which they are entitled.

These cutbacks are directly attributable to the failure of the Administration to request adequate and sufficient amounts in the budget. It is also due to the practice of using unappropriated amounts accumulated in the FUTA trust funds to offset the Federal deficit. Even though these funds are earmarked and cannot be used for any purpose other than those authorized by the Employment Security Administrative Financing Act, the surplus in the FUTA accounts has been used for what the National Commission said were purposes motivated "by nonprogram considerations arising from UI inclusion in the unified Federal budget."

The pressures resulting from cutbacks and shortfalls in administrative funding have caused many state government officials and governors to endorse proposals for various forms of devolution or defederalization of the nation's UI system. Such actions would further weaken a program that has already been devastated by inadqequate financial support.

The AFL-CIO believes that, at a minimum, two actions are required to relieve the serious problems of underfunding of the administration of the UI system:

- o Indexing the Federal taxable wage base will restore fiscal soundness to state benefit trust funds; it will also provide more adequate levels of administrative funds to support those programs necessary to aid and assist the unemployed.

- o The UI trust funds -- both the state benefit trust funds and the FUTA trust funds -- should be removed from the unified Federal budget as recommended by the National Commission.

III. Promoting Efficient Administration

A number of recommendations by the National Commission relating to administration of the program have been implemented. Unfortunately, some of those actions have not resulted in improvements from the claimants' point of view. The mandatory Quality Control program imposed by the Department of Labor in March 1986, remains exclusively an audit program of claimants. Despite assurances from the Secretary of Labor, the Quality Control program has not yet been expanded to include audits of denied claims or of revenue collections. The net effect of the program, to date, has been to reduce even further the already abysmally low percentage of jobless receiving benefits.

Budget cutbacks for program administration have resulted in office closings and staff reductions that have placed additional burdens on the jobless in our society. In many jurisdictions the unemployed must travel considerable distances to visit the nearest UI office. In many others, it is impossible to get a telephone call through or they go unanswered due to insufficient staffing levels.

Two recommendations that have not been implemented need to receive serious consideration. Administrative grants should be made available to the states to fund an office of ombudsman in each state to provide claimant assistance and counseling. The AFL-CIO believes that this program should include the establishment of an independent claimant representation section relating to each state agency.

Federal law should be changed to permit the Treasury Department to contract with state agencies to have them collect employer FUTA taxes jointly with the collection of state UI contributions. The Commission found that such action could eliminate duplication in the collection of taxes, result in more accurate tax collections, and save substantial sums of money expended on the collection process.

IV. Need for Federal Benefit Standards

The National Commission found that 36 states in 1980 had adopted provisions that provided maximum weekly benefits indexed to state average weekly wages. That number had dropped to 34 states by July 1988, and of that number at least three states have frozen benefit amounts and several others have linked benefit amounts to the level of reserves held in the state benefit trust fund. In 1980, twelve states provided benefits up to two-thirds of the state average weekly wage; today, just six states are at that level. In 1980, the average weekly benefit amount was $99 or 36 percent of the AWW; last year the average weekly benefit amount was $140 or still 36 percent of the AWW.

The Commission recommended two important Federal standards that have not been adopted but should be implemented as soon as possible. There should be a 50 percent wage replacement rate and the maximum weekly benefit amount should be at least two thirds of the state average weekly wage.

The AFL-CIO believes that the adoption of such standards is urgently needed but should be pegged at levels of 66 2/3 percent of the individual's wage up to 75 percent of the state average weekly wage.

V. Federal Eligibility Standards

The National Commission made relatively few recommendations in the area of eligibility standards and coverage. Today, just eight states provide coverage for agricultural workers on farms with fewer than ten employees. All agricultural workers should be covered by the UI system. Incredibly, as part of the 1983 Social Security Amendments, Congress required states to deny UI benefits to nonprofessional school employees between academic years. This heartless gesture has affected tens of thousands of custodial, cafeteria, safety and other service employees who work in our school systems. The AFL-CIO believes that there should be a Federal standard prohibiting discrimination against any category of employee. Workers should be treated under the law as individuals and not as members of arbitrary categories.

While the Commission recommended that no more than 39 weeks of work be required for 26 weeks of benefits, the AFL-CIO urges Congress to establish a maximum requirement for eligibility for 26 weeks of benefits of twenty weeks of employment with an alternative, in the form of a flat dollar requirement, in order not to penalize certain workers.

VI. Benefits for the Long-Term Jobless

The National Commission's recommendations concerning the federal-state extended benefit program and supplementary extended benefits have been totally ignored by both the Congress and the Administration. But even worse, as noted earlier in my testimony, the Reagan Administration pushed through changes in the EB program in 1981 that have had the effect of virtually eliminating extended benefit coverage for the long-term jobless. On top of that action, the Federal Supplementary Compensation program was allowed to expire in March 1985 which resulted in the termination of benefits for 340,000 long-term unemployed.

Congress should act swiftly to enact H.R. 2676, the extended benefit reform measure sponsored by Mr. Pease and others. The AFL-CIO, however, views this measure as a short-term reform and continues to urge a permanent, non-triggered program of extended benefits for long-term unemployed workers who have had a firm attachment to the labor force. Such benefits, in conjunction with regular state benefits, should be available for at least 65 weeks.

VII. UI Trust Funds and the Unified Budget

The inclusion of the UI trust funds in the unified budget since 1968 has subjected the system to political pressures that are unjust and unwarranted. Revenues that enter the system are not "Federal" revenues and benefits that are paid out are not "Federal" outlays. The crisis in funding the administration of the program is directly attributable to the inclusion of the trust funds in the budget. Pressures to de-federalize the program, which will further weaken

protections for the unemployed, will continue until the Congress adopts the recommendation of the National Commission to remove from the unified Federal budget all unemployment trust funds - including state trust fund accounts.

VIII. Taxation of Benefits

Subjecting UI benefits to Federal income taxation is equivalent to a Federally mandated benefit reduction. Benefits are already far below the levels recommended by the Commission and are further eroded by taxation. The Congress should repeal those provisions permitting taxation of UI benefits.

IX. Conclusion

Mr. Chairman, the AFL-CIO congratulates you and this Subcommittee for examining the need to reform the nation's Federal/State Unemployment Compensation system. We stand ready to work with you and all members of Congress to put in place a program that will serve the interest of the unemployed, of employers and of our changing economy.

Thank you.

Acting Chairman DOWNEY. I want to thank all the members of the panel. This has been very helpful.

Mr. Owen, Mr. Brown, I take it that your emphasis on keeping the State-Federal program the way it is is your desire to keep the tax rate low.

Mr. OWEN. That's correct, Mr. Chairman.

Acting Chairman DOWNEY. Do you believe the—and I'm not sure that I do—the idea that if unemployment benefits were to be raised to two-thirds of the wage replacement, that there would be some desire, active desire, on the part of the unemployed to stay unemployed, that there would be less of an incentive to get back to work?

Mr. OWEN. I think there have been conclusive studies, although I don't have the statistics that the Department of Labor folks would have, and possibly they could answer that. But if I recall correctly, there have been studies that have arrived at the same conclusion that you just stated, the longer the duration of benefits and the higher the benefits, then the longer duration of unemployment.

Acting Chairman DOWNEY. Did the chamber appreciate the fact that the purpose of the UI program is as a countercyclical tool, that aside from the purely manifestation that people who are unemployed should not be destitute, but there is a value to economy to having aggregate demand be stimulated by money in the hands of unemployed persons?

Mr. OWEN. Absolutely, Mr. Chairman.

Acting Chairman DOWNEY. Well, I am going to take a look at the recommendations of the panel, because I personally think that this program is one of these classic accidents waiting to happen.

I think Mr. Owen has capably pointed out that there is going to be an active controversy in the process of doing that. And I would hope that both the chamber and AFL and other experts would be willing at some point to sit down with me as I look at this legislation.

Mr. BROWN. We certainly will be happy to work with you, Mr. Chairman. And there is some common ground. Today, Bert, it kind of seemed like old times. I've been kind of uncomfortable coming up here and agreeing with AFL–CIO for the last several times, which we have done. And we are still in agreement on some things today. For example, on taxation of benefits, we objected to that when it originated in the Ways and Means Committee. We still think it's a bad idea.

And also we agree with much of the criticism of the failure of Congress to adequately handle administrative funding. We don't agree with your answers to how it should be done, but we agree with the criticism of Congress. So we are not in complete disagreement even today.

Mr. SEIDMAN. I think we are also in agreement, Mr. Chairman, that the unemployment insurance funds should be used for payment of unemployment insurance benefits and not for other programs, however desirable those programs may be.

Mr. BROWN. Absolutely.

Mr. SEIDMAN. And if you read the Commission report, by the way, and Mr. Rosbrow, I am sure, will attest to that, while we disagreed on many issues, there's no question about the fact that we

did. There were also many issues on which the employee and employer members were in agreement and the public members.

Acting Chairman DOWNEY. And maybe we can start with those. Those tend to be the least dramatic.

My concern is that these programs from 1935 that turn into these sacred cows, like Social Security, never really did change. They get changed in the sense that they continue to provide additional benefits to the beneficiaries because there are 38 million people who receive benefits. Heaven help any one of us who wants to change it.

Yet, somehow there is a general feeling that there is something unworthy about people who are unemployed. I think that is a terrible mistake. Most people I know like the idea of working and very much detest the idea of not working.

I thank the members of the panel for your fine testimony.

Acting Chairman DOWNEY. We will next hear from Carol Hedges who is the staff director of the Committee on Human Resources of the National Governors' Association; the Interstate Conference of Employment Security Agencies, Richard G. Freeman, president and director, Iowa Department of Employment Services; the American Federation of State, County and Municipal Employees, AFSCME, Charles Hughes, chairperson, School Employees Advisory Committee, Local 372 of the Board of Education Employees, the District Council Number 37 in New York City; and Ray Avrutis, who is the author of "How To Collect Unemployment Benefits: Complete Information For All 50 States."

Ms. Hedges, if you would begin, and I must painfully insist that you take no more than 5 minutes. I will slam the gavel and end your testimony.

STATEMENT OF ALICIA SMITH, GROUP DIRECTOR, AS PRESENTED BY CAROL HEDGES, STAFF DIRECTOR, HUMAN RESOURCES GROUP, NATIONAL GOVERNORS' ASSOCIATION

Ms. HEDGES. Being a fill-in, Mr. Chairman, I will be happy to keep this testimony as absolutely brief as possible.

Acting Chairman DOWNEY. Fine.

Ms. HEDGES. We are going to shift the focus a little bit and concentrate a bit more on the administrative financing side of the employment security system, and I am here representing the National Governors' Association and to talk with you about some of the things that NGA has been doing over the last year to address some of the issues in administrative financing.

About a year ago, in August, the National Governors' Association released a report called Jobs, Growth and Competitiveness. That report identified the need for States to become more actively involved in developing solutions to our international competitiveness problem.

And in sorting out the roles of the State governments and Federal Government in those tasks, one of the things that was clearly identified as a State role was the need to improve labor market efficiency, that is, the movement of employees across, between, and among jobs.

In response to that, Governor Celeste of Ohio established a 10 State work group to look at the issues of employment security. Not just financing issues, but a system design that would allow for us to effectively integrate employment security programs into State policies to help facilitate more effective and efficient labor market movement.

In doing so, the work group came up with a proposal that identified seven principles that they believe should guide Congressional action in developing new recommendations for employment security. The working group recognized that it is a demanding task because the clients are both employers and workers, the work group tried to strike an appropriate balance, so that clients are being served, in a way that meets the needs of both the employers and the employees.

The first of the principles identified is that there should be a certain set of core services available in every State.

As an employee or employer would move from State to State, they would be guaranteed that ceratin services would be available to them through the employment security system.

Those services include assessment, employment placement assistance, referral, information services, and temporary income maintenance.

The second principle says that the States, because of the varying economic conditions, should have management authority over the systems to determine the proper mix of those services.

A State that has a labor shortage, they may choose to array their services slightly differently than a State that has an unemployment problem.

The third principle defines a Federal role. The Federal Government should provide research capacity, a national forum for assessment, a clearinghouse function, and coordination among programs that operate between States.

The fourth principle is a continuation of the pooling of administrative costs, the insurance nature of this program, so that we share, among States, in times of need.

There have been some proposals to eliminate that pooling, but the work group and the Governors have endorsed the concept of the continuation of that pooling.

The fifth principle is to continue the use of an employer tax to fund the system but remembering that any separate programs that are outside the core services should be funded from some other source.

The sixth principle identified is that the employment security system should serve as the framework for integrating other employment-related kinds of activities, including JTPA kinds of activities, welfare, employment programs and job development. One of the criticisms we hear from employers is that there are multiple job developers trying to get jobs from employers for different State programs. Let's let the employment security system serve as kind of the framework for coordinating that kind of activity.

The seventh principle outlined was that the performance of these activities or these State programs should be judged against what the States say that they are going to do.

And let Department of Labor approve those kinds of standards, but let's make them meaningful, something that's responsive to the needs of an individual State.

Building on those principles the Governors have come up with several reforms.

Now I would like to say that it's 100-percent consensus and everybody in the country is going to—and everybody in this room, even, is going to stand up and say what great reforms all of these are.

Unfortunately that is not going to happen, but I think that they are interesting and we hope they are going to move on the dialog on some of the things that need to happen to make the system more effectively financed amd operated.

The first issue is the allocation of the funds. The Governors have endorsed the concept that the 0.6 percent base tax, FUTA tax, be divided among the ESAA and EUCA accounts, 90 percent to ESAA, 10 percent to EUCA.

With any tax beyond that base, all of it going to the EUCA account.

The second reform that the Governors propose is that there be a mandated appropriation, 90 percent of the money that flows into the ESAA account every year be distributed back to the States to run their employment security programs.

The third reform is one that deals with the allocation to the States. The Governors have endorsed a concept of providing to each State, at a minimum, 80 percent of the employer contribution that each State makes, or a hold harmless at current levels.

Now we've had DOL run some numbers on these proposals, as well as we've done some of our own analysis, and when you do those two things—an 80-percent return of the employer taxes and a guaranteed hold harmless at current levels, you've still got some money left over from the 90-percent mandated amount.

The work group has endorsed the development of a formula linking the allocation of the additional money to workload.

We have not come up with a specific formula yet. We'll be meeting over the next few months to try to do that. Hopefully we'll have a legislative proposal for you by late January, early February.

A couple of the problems we have to deal with, quite frankly, is the effect the hold harmless will have on State purchasing power. There is going to have to be some provision for cost of living or some way to address that issue.

Another thing that many States are concerned about, and we will be working with, is protections against rapidly increasing workload.

Is there some way that we can guarantee that if you have a rapidly increasing unemployment, there will be money available to deliver the increased services?

The next reform the Governors talk about is a change in the use of those funds once they get to the States. Again maximum flexibility is always our hallmark and what the Governors advocate is the ability to shift at least 30 percent of the funds between the two accounts, ES and UI, depending upon the particular need at the time.

They again suggest that any programs that are mandated outside of those core services, should be separately financed. There's also a

recommendation that operational funds, in times of rapidly increasing unemployment should be funded out of the EUCA account even though the EB trigger has not been met, because we know that when unemployment is rising, demand for administrative costs are rising as well.

There is also a set of management reforms talking about consistent planning and budgeting cycles with the other employment-related activities. A need for carryover provisions for the employment security system, a creation of amortization accounts, and some other reforms that are laid out more specifically in the policy statement which you will find in the testimony that we submitted earlier.

The last thing the Governors recommend is a need for a couple of demonstration projects.

One would be to allow for State-collected administrative costs. Let the States, three to five States, representative of winners and losers, if you will, finance and collect their own taxes for administration.

Do a 3- to 5-year study, make sure that the States chosen do not adversely affect the other States in the system, but let's see what effects this administrative structure would have on delivery of services.

There are many proposals running around out there on how to reform the administrative funding proposal, the Governors believe that we ought to try this sort of a demonstration project, although they do not believe that this demo should hold up the implementation of their other reforms.

The Governors also endorse the concept of continued testing of the reemployment bonuses to see if those activities can reduce either the length or the cost of unemployment. Those demonstration activities are being undertaken now and the Governors believe that they should continue.

The Governors have asked NGA to work on reinsurance, look at some proposals there, and we will be doing that as well. Needless to say we have lots of work left to do.

We have got a lot of specifics that have not been fleshed out yet. Like I said earlier, we plan to have some sort of a legislative proposal to you by the end of January, early February, and I think that we need to bring all the actors to the table for a constructive dialog so we can take the next step.

There is been a lot of people criticizing the way the system is currently working and what we're trying to do is take some positive steps forward in making some recommendations, or how it can be improved.

Thank you for holding these hearings and letting us have an opportunity to testify.

[The statement of Alicia Smith follows:]

STATEMENT OF ALICIA SMITH, GROUP DIRECTOR, HUMAN RESOURCES GROUP, NATIONAL GOVERNORS' ASSOCIATION

Mr. Chairman, Members of the Subcommittee:

My name is Alicia Smith, I am the Group Director for the Human Resources Group for the National Governors' Association. I thank you for the opportunity to appear before you today to share the work of the Governors on the important topic of employment security.

In August 1987, the Governors issued a report titled, Jobs, Growth, and Competitiveness. That report outlined the need for Governors to develop appropriate responses to the challenge of increasing international competition. One specific area of emphasis in the report was labor market efficiency.

In response to that report, Governor Richard Celeste of Ohio, as chairman of the Subcommittee on Employment and Training, created a ten-state work group that was charged to examine ways to increase the efficiency and equity of the employment security system. This work group, along with representatives of twenty-eight other states, developed a policy paper that the Governors adopted in February 1988 and amended in August 1988. That policy is attached for your review and serves as the basis for my comments.

The pressure to improve efficiency is accompanied by increased demands on the system. Whether it is data for child support enforcement or new activities in dislocated worker programs, the information, expertise, and resources possessed by the employment security system are in increased demand. These additional responsibilities, while related to employment activities, put new pressures on the employment security system.

Employment security programs are powerful tools for helping employers and workers adapt to a rapidly changing environment. The Governors believe that the national employment security system must operate in the broader context of public and private employment policy and should serve as an integral part of the process for maintaining a skilled and productive workforce.

PRINCIPLES FOR EFFECTIVE EMPLOYMENT SECURITY

The NGA policy statement outlines seven principles that should guide the development of federal employment security policy.

First, it supports a public employment security system that ues state employment security systems to provide a set of core services to facilitate labor market participation in every state. The core services include assessment, employment placement assistance, referral, information services, and temporary income maintenance.

Second, since economic conditions vary from state to state, each state should maintain management authority over employment security programs and should have the flexibility to determine the proper mix of core services offered.

Third, the federal government should assist states by performing activities that cannot be performed efficiently by individual states. The federal government should support a research capacity, facilitate a national forum for assessment, and assume a clearinghouse function. The federal government should continue to collect and disseminate national labor market information and develop an enhanced capacity to provide needed employment data. Further, the federal government should take responsibility for coordinating programs that operate among states.

Fourth, the policy supports the concept of pooling administrative resources among states in an efficient and equitable manner.

Fifth, the Governors support the use of employer taxes to fund core services and other services determined necessary by the states. Services in addition to core employment security functions should be financed separately.

Sixth, the statement suggests that the employment security system should serve as the framework for integrating the broad array of available employment-related services.

Seventh, the performance of each state employment security program should be evaluated against criteria and standards developed by the state and approved by the Secretary of Labor.

RECOMMENDED REFORMS

The Governors believe that resources currently appropriated to the employment security system are inadequate to fund necessary services. The Governors believe that employers are providing sufficient funds to operate the system. The problems stem from the way the taxes are divided among the Federal Unemployment Trust Funds accounts and the fact that not all available money is appropriated.

Allocation Between Funds

The policy recommends that the Federal Unemployment Tax Act (FUTA) payments be allocated as follows:

> The base 0.6 percent should be allocated 90 percent to the Employment Security Administration Account (ESAA) and the remaining 10 percent to the Extended Unemployment Compensation Account (EUCA) regardless of whether an add-on tax is in effect;
>
> Any FUTA taxes imposed in addition to the base 0.6 percent should be allocated totally to EUCA.

Mandated Appropriation

A minimum of 90 percent of the collections in the ESAA should be appropriated annually for administration of state programs.

Allocation To States

Each state should receive a minimum of 80 percent of its employer's contribution to the ESAA. The Governors believe that this minimum should be guaranteed from increases in appropriations--not through reductions in grants to other states. The Governors are committed to this hold-harmless provision.

Preliminary research indicates that even after guaranteeing an 80 percent return and imposing a hold-harmless provision, there will still be additional money left from the mandated ESAA appropriation. The additional money should be used to address changes in workload that states may experience. Among the factors that should be considered when developing such a formula are the number of insured unemployed, the total number of unemployed in each state, and the size of the civilian labor force. The formula that is developed should be applied in such a manner as to maximize responsiveness to workload fluctuations.

The NGA work group will be meeting throughout the fall and early winter to determine, more precisely, what factors should be included in the distribution formula. Another issue the work group will discuss is how to avoid the erosion of the value of a state's appropriation if the state is protected by the hold-harmless provision. The work group believes that the appropriation for operational costs of the system should continue to recognize the "insurance" nature of the program by assuring adequate resources during increases in workload.

Operational Funds

The resources allocated to the states to operate the employment security system should be distributed in a flexible manner. While unemployment insurance and employment service funds should continue to be separately identified, the Governor of each state should be able to move up to 30 percent of the money between the two programs.

Separate Financing

The costs associated with federally mandated programs that are in addition to the core services should be financed through general federal revenues.

Economic Conditions

The current system of funding the operational costs of extended benefits is not sufficient to address the problems encountered by state agencies during

periods of increased demand for services due to deteriorating economic conditions. Additional operational funding should be available when unemployment is increasing significantly even though the extended benefit trigger has not been reached. In addition, the entire cost of administering the extended benefits program should be paid from EUCA.

Management Reforms

The Governors have endorsed a series of management reforms that will help facilitate the coordination of workforce policy in the states. Enactment of consistent planning and budgeting cycles for workforce programs and enactment of carry-forward provisions are two such recommendations.

Federal regulatory requirements placed on these programs should be reviewed, and those that hinder effective, long-term planning and management should be abolished. Such changes include use of carry-over funds to finance automation expenses, allowance of interest payments as an administrative expense, and creation of amortization accounts.

The current system of financing the costs of employment security programs is not sufficient to allow states to meet the needs of employers, employees, or job seekers. In addition to the changes recommended above, there ought to be a three-year federal demonstration project that would allow three to five states to fund their operational costs through the same taxing mechanism that funds their benefit costs. These pilot projects must be carefully designed and must contain safeguards, such as a hold-harmless provision, to ensure that states not participating are not adversely affected. The states selected should be a representative sample and should include both states that receive more than they contribute and states that receive less. A rigorous evaluation should be undertaken to assess the effectiveness of such a financing approach. The Governors make it clear in their policy that this demonstration should not impede implementation of the other reforms they endorse.

The Governors also endorse continuation of demonstration projects to test the effectiveness of reemployment incentives on reducing the length and cost of unemployment. These projects should be rigorously evaluated and the results widely distributed.

The NGA work group will continue to meet and plans to have a legislative proposal available to you in early 1989. While a great deal of consensus has been developed around these proposals, there are still issues of concern that must be addressed. If we are to make meaningful and necessary changes in the employment security system, all the interested parties must be constructively involved in the debate. We must move beyond the stage of identifying problems to the point of developing workable solutions. These hearings are important to that process.

Thank you very much.

C-4 EMPLOYMENT SECURITY POLICY

4.1 PREFACE

Numerous challenges face the nation as the labor force and opportunities in the workplace change. Among states, differing circumstances reflect changing economic bases, unique demographic trends, and limitations on resource availability. Governors must have the flexibility and authority to design and implement economic development programs that address state-specific situations. Employment security must figure prominently in these efforts.

The Governors strongly believe that a national employment security system is the underpinning for implementation of a national competitiveness strategy. A commitment to such a system is a commitment to global competitiveness, simultaneously presenting new challenges and opportunities.

Employment security programs are a powerful tool for adapting to the rapidly changing environment. The public employment security system must ensure the provision of core services that facilitate labor market participation in every state, and must be able to respond to the adverse economic effects of national decisions upon states.

4.2 Principles of a national employment security system

4.2.1 Introduction. The Governors believe the following principles should guide federal policy on employment security. Adherence to these principles will provide a system that allows for and accommodates individual state policy, while promoting national goals.

As we enter a new era of competitiveness, the national employment security system must operate in a broader context of public and private employment policy. While the language of the following principles may appear to reference current activities, the complexities of maintaining a skilled and productive workforce demand new interrelationships among state employment and training activities. The employment security system should be central to developing and maintaining these interrelationships. These principles serve as the strategic framework of a new, more complex employment security system.

4.2.2 Principle One. Improving economic competitiveness by maximizing human potential requires a national employment security system that provides, through state employment security systems, a set of core services available to all employers and job seekers. These services are:

4.2.2.1 Assessment. In order to most effectively assist job seekers and employers in adapting to continuous change in labor markets, the employment security system must have the capability to assess the needs of employers and the talents

of job seekers. For employers, assessment involves determining workforce requirements. For individuals, it means determining aptitudes, abilities, and skill levels.

4.2.2.2 Employment placement assistance. Providing job opportunities for all Americans is a fundamental tenet of a competitiveness strategy. The employment security system should function as an intermediary in matching individuals with available jobs. This placement activity should strive to meet the needs of job seekers and employers, while simultaneously furthering national employment policies.

4.2.2.3 Referral. Successful economic development strategies require appropriately trained and educated workers. The employment security system can enhance efforts to train and educate workers by referring job seekers to employment or training opportunities and/or to those support services necessary to gain or sustain employment. Support services may include basic educational services, counseling, vocational guidance, and other services such as child care.

4.2.2.4 Information services. Relevant and current local, state, and national information is essential to planning for economic development in a way that enhances competitiveness. Without such information, enlightened decision making is impossible. The employment security system is positioned to effectively facilitate the national, state or local collection, compilation, and

dissemination of occupational and employment date that, for example, show labor market trends and industrial growth and decline.

4.2.2.5 Temporary Income Maintenance. Even in a relatively stable economy, unanticipated market fluctuations will result in unemployment among certain groups of workers. The employment security system must have the capacity to provide cash payments to temporarily sustain these workers. A variety of activities are required to ensure that funds are available for the proper payment of short-term unemployment benefits to eligible individuals. They include tax collection, enforcement activities, and trust fund management.

4.2.3 Principle Two. Since economic conditions vary from state to state, each state should maintain management authority over its employment security system and should have the flexibility to determine the proper mix of core services.

4.2.4 Principle Three. Reestablishing a national competitive edge requires the cooperation of all levels of government. To support a national system of state employment security programs, the federal role should be the following:

- o Assist states by performing activities that cannot be efficiently performed by individual states, such as test development and evaluation.

- o Support a research capacity and provide a national forum for assessing the effectiveness of specific projects undertaken. In addition, the federal government should assume a clearinghouse function of collecting and disseminating the results of projects designed to resolve state-identified problems, and other findings of national import.

- o Continue the system for the collection and dissemination of national labor market information, and develop an enhanced capacity to provide needed employment data.

- o Take responsibility for the coordination of programs that operate among the separate states, such as interstate job banks and interstate claims programs, to ensure efficient use of limited funds.

4.2.5 Principle Four. Continued and enhanced support for employment security programs demands an efficient and equitable system for allocating resources among states to ensure their effective administration of the core services.

4.2.6 Principle Five. An effective employment security system provides valuable services to employers. Employer taxes should provide the necessary funding for the required core services and for those services identified as a necessary

part of the employment security system within each state. Services in addition to core employment security functions should be separately financed.

4.2.7 Principle Six. An effective labor exchange system will require a commitment from all sectors of the economy. The employment security system should encourage and promote public/private partnerships and the cooperation of federal, state, and local governments. The system should provide a framework for the integration of the broad array of available employment-related activities.

4.2.8 Principle Seven. The performance of state employment security programs should be evaluated against criteria and standards delineated in an annual service delivery plan. Such annual plans would be prepared by each state and certified by the Secretary of Labor for conformity with federal statutes.

4.3 Recommended employment security system reforms

4.3.1 Preface. The Governors recommend changes in the current system of financing the operational costs of the employment security system. Such changes are necessary to provide an effective national employment security system that will be able to address the ongoing challenge to remain competitive.

4.3.2 Operational Financing Improvements. Resources appropriated to the employment security system currently are inadequate to fund essential services. Employers who finance this

system through the Federal Unemployment Tax Act (FUTA) are putting enough money into the system to provide an adequate service. However, because of the way the collections are split among the Federal Unemployment Tax Act accounts and because the appropriations are below what is available, the funding has been inadequate. The following reforms would significantly improve the system's ability to function:

4.3.2.1 Allocation between funds. The Federal Unemployment Tax Act payments made by employers should be allocated as follows:

- o The base rate of 0.6 percent should be allocated 90 percent to the Employment Security Administration Account (ESAA) and the remaining 10 percent to the Extended Unemployment Compensation Account (EUCA) regardless of whether an add-on tax for the EUCA is in effect;

- o Any FUTA taxes imposed in addition to the base 0.6 percent should be allocated totally to EUCA.

4.3.2.2 Mandated Appropriation. A minimum of 90 percent of the collections to the ESAA shall be appropriated annually for the operation of state programs.

4.3.2.3 Allocation to States. The total mandated appropriation should be allocated among the states. Each state should be guaranteed a minimum of 80 percent of tax

dollars contributed by their employers to the ESAA. However, this adjustment should be made only through increases in allocation of available dollars, not through reductions in grants to other states (hold harmless requirement).

Funds not distributed through the 80 percent guaranteed minimum return and the hold harmless requirement should be used to address changes in workload experienced by state employment security systems. The formula to reflect workload changes should include such factors as the number of insured unemployed, the total number of unemployed in each state, and the size of the civilian labor force. The formula should be applied in a manner that maximizes responsiveness to workload fluctuations.

4.3.2.4 Operational Funds. Operational funds should be distributed to the states in a flexible manner that reflects workload, such as a modified block grant, to facilitate efficient management of employment security programs.

Unemployment insurance and employment service funds should be clearly identified. The Governor of each state should be able to move up to 30 percent of the money between the two programs. A Governor should be able to increase the percentage of money shifted between the programs upon notification of the Secretary of Labor.

4.3.2.5 Separate financing. Operational costs associated with federally mandated programs that are in addition to the core services should be separately financed from general revenue.

4.3.2.6 Economic conditions. The effects of high unemployment and deteriorating economic conditions on state operational costs must be explicitly considered in the development of funding reforms. Periods of high unemployment and stagnating economies increase the demand for employment security services. The current program of extended benefit coverage, however, does not adequately address the problems encountered by state employment security systems in providing core services during these times. Additional operational funding should be available when unemployment is significantly increasing even though the extended benefit trigger has not been reached. In addition, the entire cost of administering the extended benefits program should be paid from EUCA.

4.3.3 Management reforms. Management reforms must promote flexibility within the system and improve the Governors' ability to respond to changing conditions. These changes may include the use of advisory councils, as needed, for employment security programs. Further changes should include the establishment of consistent planning and budgeting cycles, and the enactment of carry-forward provisions.

The Governors support changes that will permit and encourage the individual states to focus on efficient and cost-effective management. Requirements that hinder effective, long-term planning and management activities should be abolished. Preferred changes include the use of carry-over funds to finance automation expenses, allowance of interest payments as an administrative expense, and the creation of amortization accounts.

4.3.4 Veterans. The above recommended reforms are not intended to change the priorities provided to veterans in the operations of the employment security system.

4.4 Reforms requiring further study.

4.4.1 Preface. The Governors believe that implementation of their proposed reforms will result in increased efficiency and effectiveness of the employment security system and will improve the nation's ability to compete in a rapidly changing world. Four other proposals deserve consideration and should be examined to determine their potential for improving the system:

4.4.2 Optimum guaranteed state return. While the concept of a guaranteed return of employer taxes to the state of origin is supported in this statement, the optimum percentage of that guaranteed return requires further study. Research on this issue should focus on the needs of states in periods of high and increasing unemployment, on the level that

would return the maximum possible while not resulting in a disadvantage to any state, and on the amount of money needed to cover additional costs, including federal administrative costs and contingency requirements.

4.4.3 Alternative Operational Funding Demonstrations. The Governors support a three-year federal demonstration project that would allow three to five states to fund their operational costs through the same taxing mechanism that funds their benefits costs. The Governors believe a state-collection and appropriation mechanism, utilizing the FUTA tax base and adhering to strict maintenance of efforts requirements, should be tested. The pilot program must be carefully designed and must contain safeguards, such as a hold-harmless provision, to ensure that states not participating in the pilot are not adversely affected. The states selected for participation should be representative and should include both states that receive more than they contribute under the current system and states that receive less. A comprehensive evaluation of the demonstration must be undertaken to assess the effectiveness of the financing strategy in improving state employment security program operation.

In no way should this demonstration impede the implementation of the recommendations contained in the operational financing improvements section of this statement.

4.4.4 Alternative Reemployment Incentives. Several states already have begun experimenting with alternative strategies to urge UI recipients to move more quickly into new jobs. The Governors encourage these initiatives and believe that the changing nature of unemployment, i.e., a significant amount of dislocation and an increasingly complex economy, demands that we explore ways to provide benefits above and beyond providing temporary financial assistance to jobless workers. In order to build and retain a competitive workforce, states also must be allowed to experiment with, in controlled demonstrations projects, training vouchers, reemployment bonuses, and support services. These initiatives will allow states to provide a continuum of employment and training services without burdening state and federal revenues.

The federal government has sponsored a number of these demonstration projects and has conducted evaluations of state efforts. The Governors believe these projects should continue with rigorous evaluations to determine the cost-effectiveness of such experiments.

4.4.5 Benefit Funding Proposal. Frequently, national policy decisions that benefit the country may adversely impact an individual state. Even prudent trust fund management may not ensure states' capacity to meet benefit payments and maintain trust fund integrity during periods of

catastrophic unemployment. The Governors encourage the study of reinsurance proposals as a way to address these concerns.

Unemployment Rates by State, June 1988

Table 1. Civilian labor force and unemployment by State
(Numbers in thousands)

State	Civilian labor force				Unemployed							
					Number				Percent of labor force			
	May		June		May		June		May		June	
	1987	1988	1987	1988p	1987	1988	1987	1988p	1987	1988	1987	1988p
Alabama	1,893.9	1,862.1	1,912.5	1,875.1	141.6	126.4	142.8	128.2	7.5	6.8	7.5	6.8
Alaska	254.0	246.2	262.2	249.8	29.1	23.2	28.9	21.7	11.5	9.4	11.0	8.7
Arizona	1,620.0	1,633.1	1,609.1	1,623.3	101.2	94.4	106.2	98.8	6.2	5.8	6.6	6.1
Arkansas	1,101.1	1,138.6	1,101.9	1,128.2	85.6	88.0	87.7	87.6	7.8	7.7	8.0	7.8
California[1]	13,783.4	14,066.4	13,808.4	14,175.7	765.8	814.9	749.5	770.6	5.6	5.8	5.4	5.4
Colorado	1,721.7	1,692.5	1,726.0	1,690.0	136.8	109.0	131.0	104.8	7.9	6.4	7.6	6.2
Connecticut	1,752.6	1,723.9	1,776.6	1,761.8	55.4	42.2	58.0	53.0	3.2	2.4	3.3	3.0
Delaware	329.9	346.4	338.1	353.0	9.2	10.2	10.3	10.6	2.8	2.9	3.0	3.0
District of Columbia	330.1	336.9	334.1	344.0	20.4	16.5	21.0	18.0	6.2	4.9	6.3	5.2
Florida[1]	5,878.7	6,103.9	5,884.1	6,142.2	297.3	288.2	312.6	295.2	5.1	4.7	5.3	4.8
Georgia	3,056.4	3,143.7	3,101.1	3,147.1	170.2	191.2	177.3	199.3	5.6	6.1	5.7	6.3
Hawaii	516.0	522.2	521.9	523.3	20.8	15.5	22.3	16.2	4.0	3.0	4.3	3.1
Idaho	473.0	475.6	481.5	485.9	36.8	29.7	34.6	27.4	7.8	6.2	7.2	5.6
Illinois[1]	5,719.4	5,731.0	5,853.1	5,808.2	448.7	394.6	454.4	403.6	8.2	6.9	7.8	6.9
Indiana	2,739.1	2,793.0	2,744.4	2,820.3	171.5	125.7	170.5	128.7	6.3	4.5	6.2	4.6
Iowa	1,461.8	1,484.6	1,459.3	1,499.6	75.6	59.5	76.8	59.9	5.2	4.0	5.3	4.0
Kansas	1,278.0	1,302.6	1,293.1	1,307.4	60.5	52.9	61.9	56.7	4.7	4.1	4.8	4.3
Kentucky	1,681.7	1,717.8	1,685.5	1,711.4	144.9	134.5	146.3	133.1	8.6	7.8	8.7	7.8
Louisiana	1,981.7	1,907.7	1,989.9	1,925.2	248.0	202.4	250.6	202.1	12.5	10.6	12.6	10.5
Maine	582.2	587.8	603.8	607.1	24.9	22.5	24.9	22.2	4.3	3.8	4.1	3.7
Maryland	2,412.6	2,436.5	2,427.7	2,459.0	98.5	100.1	102.8	108.5	4.1	4.1	4.2	4.4
Massachusetts[1]	3,062.8	3,105.8	3,147.8	3,216.7	103.3	83.8	97.3	110.2	3.4	2.7	3.1	3.4
Michigan[1]	4,519.5	4,507.2	4,577.3	4,595.8	368.6	295.1	408.6	326.4	8.2	6.5	8.9	7.1
Minnesota	2,241.8	2,342.0	2,284.6	2,373.9	116.8	75.6	119.0	80.5	5.2	3.2	5.2	3.4
Mississippi	1,155.9	1,156.1	1,167.5	1,149.4	114.9	81.3	123.2	90.1	9.9	7.0	10.6	7.8
Missouri	2,600.2	2,584.6	2,598.3	2,612.8	160.4	119.2	158.1	133.5	6.2	4.6	6.1	5.1
Montana	408.6	407.4	413.0	411.4	28.9	27.6	29.1	26.3	7.1	6.8	7.0	6.4
Nebraska	813.0	808.2	810.3	823.5	39.8	26.8	40.0	27.3	4.9	3.3	4.9	3.3
Nevada	559.3	579.8	565.4	582.8	34.9	31.1	35.1	31.6	6.2	5.4	6.2	5.4
New Hampshire	584.2	598.8	600.4	609.2	14.8	12.4	15.8	12.1	2.5	2.1	2.6	2.0
New Jersey[1]	4,042.8	3,965.5	4,042.2	4,024.4	167.8	148.8	167.3	146.8	4.2	3.8	4.1	3.6
New Mexico	685.2	690.9	689.4	693.4	62.2	55.4	64.8	60.2	9.1	8.0	9.4	8.7
New York[1]	8,304.6	8,269.8	8,540.3	8,555.6	380.4	340.4	391.3	289.3	4.6	4.1	4.6	3.4
North Carolina[1]	3,230.8	3,291.4	3,296.3	3,343.5	135.1	109.4	160.6	116.4	4.2	3.3	4.9	3.5
North Dakota	333.3	329.6	337.4	336.5	15.5	12.3	15.9	13.2	4.6	3.7	4.7	3.9
Ohio[1]	5,275.5	5,242.8	5,307.0	5,324.5	372.3	301.6	385.3	322.9	7.1	5.8	7.3	6.1
Oklahoma	1,584.8	1,527.5	1,594.4	1,527.7	122.6	94.2	122.2	92.5	7.7	6.2	7.7	6.1
Oregon	1,382.0	1,432.8	1,414.7	1,440.1	79.8	84.0	78.1	84.5	5.8	5.9	5.5	5.8
Pennsylvania[1]	5,594.9	5,434.7	5,719.4	5,786.1	300.7	279.5	354.5	325.5	5.4	5.0	6.2	5.6
Rhode Island	522.8	524.7	525.3	527.4	20.0	14.4	20.2	16.3	3.8	2.7	3.9	3.1
South Carolina	1,642.1	1,671.7	1,641.9	1,674.9	92.0	76.8	96.5	78.2	5.6	4.6	5.7	4.7
South Dakota	360.6	368.3	366.5	378.9	13.0	11.0	14.4	13.3	3.6	3.0	3.9	3.5
Tennessee	2,328.3	2,379.6	2,353.9	2,364.6	147.2	120.5	153.4	127.3	6.3	5.1	6.5	5.4
Texas[1]	8,337.1	8,333.8	8,352.4	8,596.7	717.5	604.6	803.2	685.8	8.6	7.3	9.6	8.0
Utah	763.3	749.1	767.7	746.6	50.1	36.4	50.0	35.3	6.6	4.9	6.5	4.7
Vermont	292.4	295.0	300.0	299.8	10.4	7.8	9.8	7.6	3.6	2.7	3.3	2.5
Virginia	2,990.0	3,117.7	3,030.0	3,170.7	122.7	112.2	129.5	120.6	4.1	3.6	4.3	3.8
Washington	2,267.5	2,348.0	2,305.1	2,358.6	165.2	138.5	165.8	138.9	7.3	5.9	7.2	5.9
West Virginia	754.0	751.9	755.2	736.0	81.0	66.5	77.6	65.0	10.7	8.8	10.3	8.8
Wisconsin	2,493.7	2,526.7	2,531.3	2,582.8	144.0	102.7	146.7	102.6	5.8	4.1	5.8	4.0
Wyoming	248.0	233.6	254.9	258.8	20.9	13.1	19.5	11.5	8.4	5.6	7.7	4.8
Puerto Rico	993.7	1,045.7	1,030.4	1,090.4	165.3	160.8	172.3	166.7	16.6	15.4	16.7	15.3

[1] Data are obtained directly from the Current Population Survey. (See "Explanatory Notes" for State and Area Labor Force Data in Employment and Earnings, Monthly.)

p = preliminary.

NOTE: Data refer to place of residence. Unemployment rates are computed from unrounded data. Estimates for 1987 have been benchmarked to 1987 Current Population Survey annual averages and may differ from data published earlier. Except in 11 States designated by footnote 1, estimates for 1988 are provisional and will be revised when new benchmark information becomes available. Data for Puerto Rico are derived from a monthly household survey similar to the Current Population Survey and are not subject to revision.

TRIGGER NOTICE NO. 88 - 33

STATE EXTENDED BENEFIT INDICATORS UNDER P.L. 94-566
AS OF AUGUST 13, 1988

Number 'On:' 00		EXTENDED BENEFIT INDICATORS 13 Week IUR	Percent of Prior 2 Years	STATUS OF EXTENDED BENEFITS Periods Beginning Date (B) Ending Date (E)
	ALABAMA	2.08	73	E 06-04-83
	ALASKA	4.56	69	E 07-09-88
	ARIZONA	(INA)	(---)	E 10-23-82
*	ARKANSAS	2.71	88	E 03-26-83
	CALIFORNIA	2.59	86	E 07-02-83
	COLORADO	1.75	80	E 01-24-81
	CONNECTICUT	1.26	91	E 01-24-81
*	DELAWARE	1.38	91	E 07-17-82
	DIST OF COL	1.72	86	E 01-24-81
*	FLORIDA	1.11	84	E 01-24-81
*	GEORGIA	1.29	76	E 01-24-81
	HAWAII	1.57	77	E 01-24-81
	IDAHO	2.78	73	E 06-13-87
	ILLINOIS	1.98	76	E 06-25-83
	INDIANA	1.12	69	E 04-30-83
*	IOWA	1.28	65	E 06-04-83
	KANSAS	1.84	76	E 11-06-82
*	KENTUCKY	2.03	80	E 03-19-83
	LOUISIANA	2.90	59	E 03-14-87
	MAINE	1.60	73	E 06-25-83
	MARYLAND	1.26	76	E 07-31-82
*	MASSACHUSETTS	1.82	94	E 06-26-82
	MICHIGAN	2.87	93	E 06-11-83
	MINNESOTA	1.36	79	E 06-18-83
	MISSISSIPPI	2.64	70	E 07-16-83
	MISSOURI	1.91	84	E 06-19-82
	MONTANA	2.46	85	E 06-04-83
	NEBRASKA	1.05	66	E 01-24-81
	NEVADA	1.72	76	E 04-23-83
*	NEW HAMPSHIRE	0.50	81	E 01-24-81
	NEW JERSEY	1.92	87	E 06-19-82
	NEW MEXICO	2.32	71	E 11-27-82
	NEW YORK	1.95	88	E 01-24-81
	NORTH CAROLINA	1.25	82	E 05-14-83
*	NORTH DAKOTA	1.45	67	E 06-11-83
	OHIO	1.71	73	E 05-14-83
	OKLAHOMA	1.66	55	E 01-24-81
	OREGON	2.64	77	E 07-02-83
	PENNSYLVANIA	2.27	78	E 08-06-83
	PUERTO RICO	(INA)	(---)	E 12-20-86
	RHODE ISLAND	2.42	89	E 05-21-83
	SOUTH CAROLINA	1.46	77	E 03-19-83
*	SOUTH DAKOTA	0.74	73	E 01-24-81
	TENNESSEE	1.90	87	E 09-25-82
	TEXAS	1.65	66	E 01-24-81
*	UTAH	1.33	67	E 06-25-83
	VERMONT	1.34	77	E 05-21-83
	VIRGINIA	0.80	94	E 01-24-81
	VIRGIN ISLANDS	1.60	104	E 08-06-83
*	WASHINGTON	3.15	92	E 07-02-83
	WEST VIRGINIA	2.67	77	E 05-18-85
	WISCONSIN	1.63	73	E 06-18-83
*	WYOMING	1.67	54	E 06-13-87

* State does not have 6% option in its law

U.S. Department of Labor, ETA, UIS
Division of Actuarial Services
August 26, 1988

Acting Chairman DOWNEY. Thank you.
Mr. Freeman, 5 minutes.

STATEMENT OF RICHARD G. FREEMAN, PRESIDENT, INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES, INC., AND DIRECTOR, IOWA DEPARTMENT OF EMPLOYMENT SERVICES

Mr. FREEMAN. Thank you, Mr. Chairman.

I am Dick Freeman. I am the director of the Iowa Department of Employment Services, and I am the president of the Interstate Conference of Employment Security Agencies which is the organizations of State administrators of unemployment insurance and employment services.

The Interstate Conference, reviewed of the National Commission on Unemployment Compensation's report, and provided input to the commission; our comments today are based upon current Interstate Conference policy.

The conference supports the recommendation to remove trust fund accounts from the unified budget. The inclusion of the accounts leads to legislative decisions without full consideration of impact on State unemployment compensation programs, generally for the purpose of reducing the Federal budget deficit.

An example of this would be the restrictions on the payment of extended benefits, which include the higher trigger levels enacted in 1981.

It is our feeling that State unemployment insurance trust funds can be used only to pay unemployment insurance benefits, and counting them in the Federal budget is merely masking other spending in other programs.

Concerning benefit financing, although the recommendation to index wage base was not enacted, an increase in both the wage base and rate have put Federal accounts in sound financial conditions at this time.

It is interesting to note that the Federal legislation related to State trust fund borrowing and repayment of loans has in fact followed the commission's original recommendations.

Reinsurance for unemployment insurance was endorsed by the commission, but not enacted. We, at this time, would like to encourage Congress to consider establishment of a reinsurance plan now while unemployment is low.

We feel this is a timely effort and would possibly support the system in any instance of high unemployment in the future.

Under the Federal benefits standards, the commission recommended repeal of certain restricted Federal requirements and establishment of other minimum standards for State programs.

The conference believes that decisions about benefit qualifying and eligibility are best made at the State level, where proper consideration can be given to unique labor market, local economies, and social needs of individual States.

Federal standards appear to us to separate decisions about program costs and responsibility for financing and thus have major implications for long-term program solvency.

In the extended and supplemental benefits area, the Commission recommended liberalizing extended and supplemental benefits; subsequent legislation since the commission has actually restricted these benefits.

Many of the recommendations to improve administration have been implemented, including processing of interstate claims which has been sped by automation. In addition, a program to improve the integrity of payments and eventually tax collections has grown out of a study by the Commission and quarterly wage reporting is now required for cross-matching purposes.

In the area of administrative funding for the system, when the Commission reported, there were insufficient FUTA revenues to pay for the adequate administration.

Now the problem is insufficient appropriations, not insufficient revenues. The Employment Security Administration account will have in excess of $980 million at the end of this fiscal year.

The Commission, when it gave its report, recommended increasing Employment Service staff from 30,000, at that time, to 50,000.

Instead, the Employment Service staff has been cut to 17,000 since 1981. Merely maintaining a basic accessible labor exchange has not been possible in many States within the Federal dollars provided.

More than half the States are now using State funds to supplement Federal allocations for the Employment Service. In my own State of Iowa, rather than close offices, we have imposed an administrative surtax on our employers which will raise about $4.8 million for our annual budget this year.

Increased funding and financial flexibility were recommended for UI. Some additional flexibility has been achieved, however, overall, funds have been reduced.

Our staff in the unemployment insurance area has dropped from 54,000 in 1981 to 40,000 in 1988. About 600 local unemployment offices have been closed. While the reduction is related to reduced workload, such drastic reductions threaten the ability of our system to respond in future times of high unemployment. These cuts have greatly eroded our base staff.

Suggestions to improve the administrative funding. ICESA has spent much time and energy seeking solutions. In 1987, the conference adopted proposals including such things as greater flexibility in the use of funds, a common program year for the Employment Service and JTPA.

We suggested establishing amortization accounts for capital improvements, and we also support permission for payment of interest for purchasing or leasing of capital equipment, computer software and buildings.

We also asked that a process be established for negotiation between the States and the Federal Government to meet mandated Federal requirements and additional funding when new programs are needed.

In addition to these proposals the conference has endorsed the National Governors' Association proposal which was just described to you. Many of our members have participated in that process to this point and I expect that many of our members will be active in the further development of the proposals.

I thank you again for the opportunity to present comments and will be pleased to answer any questions you may have later.

[The statement of Mr. Freeman follows:]

STATEMENT OF RICHARD G. FREEMAN, PRESIDENT, INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES, INC.

Mr. Chairman and members of the Subcommittee, my name is Dick Freeman; I am Director of the Iowa Department of Employment Services and President of the Interstate Conference of Employment Security Agencies, Inc. (ICESA). I speak to you today representing ICESA, the organization of state administrators of unemployment compensation laws and public employment services throughout the country.

The National Commission on Unemployment Compensation (NCUC) spent two years examining and debating issues related to virtually every aspect of the unemployment compensation (UC) program. The final report of the NCUC, issued in July 1980, sets forth recommendations which were achieved after great effort. Members of the Commission were able representatives of a wide range of views. The Chairman of the Commission, the late Wilbur Cohen, worked patiently to bring these divergent views to some middle ground. He was successful in achieving consensus on some 30 issues, regarding which recommendations were adopted unanimously. A significant number of other recommendations were decided by a majority vote with minority dissent. It is a tribute to the hard work of Chairman Cohen and other Commissioners that these recommendations are being reexamined today.

ICESA and its members individually, appeared before the NCUC on numerous occasions and followed the Commission's deliberations with great interest. Soon after issuance of the recommendations, ICESA's members took positions regarding many of them. Those positions, however, may not reflect the views of ICESA's current members, since only a few of those who had the opportunity to participate in setting those positions are sill in the ranks of the ICESA membership. Therefore, this statement is based on current ICESA policy which relates, in a general way, to many of the Commission's recommendations.

REMOVAL OF TRUST FUNDS FROM FEDERAL BUDGET

One of the Commission's recommendations which continues to be supported by ICESA, is removal of the unemployment compensation accounts from the unified federal budget. The Commission noted that inclusion of these accounts in the federal budget had led to legislative decisions without either full consideration of the issues involved or their impact on state unemployment compensation programs. This has continued to be the case. For example, pressures to reduce the federal budget deficit played a major role in decisions to establish separate qualifying and eligibility requirements for extended benefits and to increase state extended benefit trigger levels. As the Commission also noted, including these accounts in federal budget totals distorts federal budget realities. State unemployment trust funds can be used only to pay unemployment benefits; counting them in federal budget totals merely masks other spending.

BENEFIT FINANCING

The Commission made a great many recommendations regarding financing. At the time the report was issued, the Extended Unemployment Compensation Account had borrowed heavily from general revenues to pay extended and federal supplemental benefits during the 1970's. The Commission recommended cancelling that debt and setting the Federal Unemployment Tax wage base at a percent of the average annual wage in covered employment in order to generate increased revenues for the future at both the state and federal level. While neither of these recommendations have been enacted, Congress did increase the wage base by $1000 and increase the tax rate by 0.1%. The entire debt of the Extended Unemployment Compensation Account to general

revenues has been repaid, and the federal trust fund accounts are now in sound financial condition.

The Commission also expressed concern about the financial condition of many state accounts and foresaw some of the problems, although not the high level of borrowing, which occurred in the following five years. Subsequent legislation related to borrowing and repayment of loans has generally followed Commission recommendations.

One financing recommendation which has not been enacted and which merits the attention of Congress, is establishment of a reinsurance plan. While ICESA has not endorsed the specific reinsurance plan proposed by the Commission, ICESA does support the concept of reinsurance, whereby states would be reimbursed for a portion of their excess benefit costs during periods of high unemployment. Now, while unemployment is low, is an ideal time to put a reinsurance plan in place. It would help to stabilize the program during the next recession and to avoid the widespread depletion of state trust funds which occurred during the last recession.

FEDERAL BENEFIT STANDARDS

Another set of recommendations relates to benefit qualifying and eligibility requirements. The Commission recommended repeal of federal restrictions on the payment of benefits to: 1)certain undocumented alien workers, 2) professional athletes under certain conditions, 3) claimants who receive pensions and, 4) certain school employees. ICESA supports the repeal of these requirements; decisions about whether or not to restrict benefit payments under the various conditions listed above are best made at the state level.

For the same basic reason, ICESA opposes the establishment of minimum benefit standards which were recommended by the Commission. Those recommendations would: 1) require a maximum weekly benefit amount of at least 66 2/3 percent of the state average weekly wage; 2) require that the weekly benefit amount equal at least 50 percent of the individual's base period average weekly wage, 3) prohibit states from requiring more than 39 weeks of work in the base period to qualify for 26 weeks of benefits, and 4) prohibit total cancellation of benefits except for fraud and receipt of disqualifying income. ICESA's opposition to these and other federal benefit standards is based on the observation that states have established programs that reflect their unique labor markets, economies and social needs. State legislators are accountable to the public for maintaining a state program that meets the needs of its citizens. Federal standards have the effect of separating decisions about program costs from the responsibility to generate revenue to pay those costs, and thus, have major implications for long term solvency of state programs.

EXTENDED/SUPPLEMENTAL BENEFITS

Another aspect of benefits which the Commission addressed was protection during periods of high unemployment. Several recommendations would have made extended benefits available under less severe economic conditions than the program at that time required. Other recommendations would have established a permanent supplemental benefits program and a lifetime reserve benefit program for older workers. Obviously, federal legislation since 1980 has moved in the opposite direction from the Commission recommendations. Higher levels of unemployment are required to trigger extended benefits than were required when the Report was issued. In addition, federal qualifying and eligibility requirements for EB further restrict payments.

In recent years there have been numerous proposals to modify the Federal-State Extended Benefit program. In response to these ICESA developed its own proposal which is similar in some respects to H.R. 2676, a bill sponsored by Mr. Pease, which was the subject of hearings last December. ICESA supports the following basic concepts in a modified extended benefit program:

- A variable number of weeks of benefits would be available based on the level of unemployment in the state.
- There would be a sliding scale of financial responsibility between the state and federal governments--the higher the level of unemployment, the greater the federal share.
- There would be a similar sliding scale between Federal Unemployment Tax Act revenue and general revenues in paying for the federal share--the higher the level of unemployment, the larger the general revenue contribution.

IMPROVED ADMINISTRATION

The Commission made a number of proposals to improve the administration of the unemployment compensation program. A number of those have been implemented. A program to detect fraud and other benefit payment errors has been developed based on the Commission-funded random audit program. Eventually, the program will include tax collection fraud/errors as well. Interstate benefit claims processing has been speeded by the use of electronic mail and automation, as recommended by the Commission. Another recommendation, quarterly wage reporting, is now required for purposes of crossmatching.

ADMINISTRATIVE FUNDING

The Commission recommended increasing administrative funding for both the Unemployment Compensation (UC) and Employment Service (ES) programs from the FY 1980 levels. When the Commission made its report there was a shortage of Federal Unemployment Tax revenues available to pay for UC and ES administration. Although the specific measures recommended by the Commission were not followed, revenues have been substantially increased. The latest projection from the Department of Labor indicates that at the end of this month the Employment Security Administration Account will have a balance of $2.0 billion. The account, by law, can carry over from one year to the next a maximum of 40 percent of the prior year's appropriation. This amounts to $1.06 billion for FY 1988. (The excess, $940 million, will go into the Extended Unemployment Account.)

The Commission recommended that employment service staffing be increased from the 1980 level of 30,000 staff years to 50,000 by 1985. When the Commission made this recommendation the employment service staffing had been at the 30,000 level for 15 years; it seemed that it was time to catch up with increases in the labor force. However, since the Commission issued its report, employment service staff has been reduced to about 17,000. In many states the employment service no longer offers services such as, counseling and testing, which were standard years ago. Merely maintaining a basic, accessible labor exchange has not been possible in many states within the federal dollars provided. More than half the states are using state funds to supplement federal allocations for employment services.

The Commission also recommended increased funding and improved financial flexibility for the unemployment compensation program. Two of those recommendations, related to flexibility and funding for automation have been addressed. Other important recommendations, specifically those related to full funding of the unit time cost of processing unemployment claims and establishing a base staff level at the annual average claim level rather than the level of the lowest quarter, have not been implemented. Time factors were 85 percent funded in 1980; current funding is about 83 percent. The base staff level is still determined by claims levels in the lowest quarter of the year. This creates special problems in the current low claims period. Base staff has been reduced by about 10% nationwide in FY 1989. ICESA is concerned that base staff has been reduced below the level needed to respond during the next economic downturn. Many claims functions, such as determining eligibility and deciding appeals, require background and training that cannot be acquired within a few weeks or even a few months. A cadre of trained staff should be maintained even when unemployment is low.

The Commission was also concerned about inadequate appropriations for overhead costs and authorized a study of the problem. Based on this study, the Commission recommended that these costs be fully funded and not subject to percentage reductions. Funding for overhead costs, which is tied to total staff levels, has become even more severe in the years since the Commission issued its Report. From FY 1981 to the present, staffing for the unemployment compensation program has declined from about 54,000 to the current level of about 40,000. While much of these reductions have been related to lower levels of unemployment and fewer claims for benefits, they have been difficult to manage. The massive reduction in employment service staff has also had an impact on the UC system. The two programs often share offices, computers and other overhead costs. As ES funds have been reduced, the UC program has been charged a higher portion of these overhead costs. In many states positions must be left vacant in order to pay these costs. This shortage of funds for items such as rents and utilities has forced states to close about 600 offices since 1981 and currently threatens the ability of states to maintain an infrastructure which will be adequate to serve the unemployed during the next economic downturn.

Because of the serious administrative funding problems which states have experienced and continue to experience, ICESA has spent much time and energy in recent years looking for solutions to these problems. At its 1987 Annual Conference, ICESA adopted recommendations and study proposals for administrative reform. These recommendations propose changes within the current administrative funding system and codification of these changes. The 1987 recommendations include removing Federal Unemployment Tax Act and state trust funds from the federal unified budget by 1991 and making certain provisions of the Social Security Act, commonly called "Reed Act" provisions, a permanent part of the Social Security Act. The Commission also addressed the "Reed Act" provisions and recommended that they be reauthorized; in 1982 they were extended for ten years. The proposals also include recommendations for: a process to provide for negotiation between the states and Federal government on funding to-meet mandated federal requirements and additional funding when new programs are added; greater flexibility in the use of funds; a common program year with the employment service and JTPA; ability to carry forward funds from one program year to the next; establishment of amortization accounts for capital improvements; and defining interest as an allowable cost in the purchase/leasing of capital equipment, computer software and buildings.

At its 1988 Annual Conference, ICESA endorsed provisions relating to administrative financing contained in the National Governors' Association Employment Security Policy, with the understanding that the process of drafting legislation to implement these proposals will address all outstanding concerns. These NGA proposals will be developed further by a workgroup in which many of ICESA's members will participate.

The NGA policy proposals would require that 90 percent of the income to the Employment Security Administration Account be appropriated each year for administration of state programs. From the total amount appropriated, each state would be guaranteed a minimum of 80 percent of the amount attributable to wages paid in that state; however this guarantee would be achieved only by increases in available funds not through reductions in grants to other states. A hold-harmless requirement would be an integral part of the plan. Funds not distributed through the 80 percent guaranteed minimum return would be used to address changes in workload experienced by states. Flexibility in the use of funds would also be increased. This is only a partial outline of the proposal; ICESA's members intend to participate as NGA works to develop this outline into a legislative proposal. We hope to have additional conversations about it with you in the future.

Thank you for the opportunity to appear at this hearing today. I would be pleased to address any questions you might have.

Acting Chairman DOWNEY. Thank you, Mr. Freeman.
Mr. Hughes.

STATEMENT OF CHARLES HUGHES, CHAIRMAN, SCHOOL EMPLOYEES ADVISORY COMMITTEE, AND PRESIDENT OF LOCAL 372, AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, AFL-CIO, ACCOMPANIED BY CHARLES M. LOVELESS, DEPARTMENT OF LEGISLATION

Mr. HUGHES. Thank you, Mr. Chairman. Greetings from New York State, our great State.

Mr. Chairman, and members of the Subcommittee on Public Assistance and Unemployment Compensation, I am Charles Hughes, chairman of the School Employees Advisory Committee of the American Federation of State, County, and Municipal Employees, and I am also president of Local 372 of the Board of Education Employees of District Council 37 in New York City.

With me today is Chuck Loveless of the AFSCME's Department of Legislation, and we are appearing today on behalf of the more than 1.3 million members of AFSCME who work in State and local governments across this Nation.

With your permission, I would ask that our written statement be included in the record.

Acting Chairman DOWNEY. Without objection, all of your written statements will be included in the record in their entirety.

Mr. HUGHES. Thank you, Mr. Chairman.

We commend the subcommittee for holding this general oversight hearing on the Nation's unemployment compensation system, and for specifically focusing on the recommendations of the National Commission on Unemployment Compensation.

We want to use our allotted time today to raise an issue of critical concern to the hundreds of thousands of nonprofessional school employees across the Nation and which was addressed in a National Commission's report, and in legislation recently introduced by Congressman Matsui, and you, Chairman Downey. This issue is directly related to the question of the adequacy of coverage provided by the Federal-State Unemployment Insurance System.

As part of the Social Security rescue package which was adopted by Congress in 1983, a provision was included requiring the State to deny unemployment benefits between academic years or terms to nonprofessional public school employees if they have reasonable assurance of returning to work in the next academic year.

It should be noted that this automatic blanket denial requirement was added to the Social Security bill without the benefit of normal legislative deliberations. The provision was attached to the Senate version of the Social Security bill during the Finance Committee's consideration of this bill. No hearings have ever been held on the issue and there was not a comparable provision in the House Social Security bill. This was one of the last issues to be resolved in the House and Senate Conference on the 1983 Social Security Amendments.

As a result of this new Federal mandate, thousands of support service employees of elementary, secondary, and higher education institutions have lost protection against unemployment between

academic years or terms. While we have had only limited experience with the law since it became effective only recently, we already know that the impact has been devastating for many school workers and their families. Educational support employees—the custodians, cafeteria workers, bus drivers, crossing guards and secretaries who keep our schools running—are among the lowest paid group of workers in the Nation, with many working at or near the minimum wage level.

Given the very low hourly rate of compensation which was demonstrated in a recent salary survey by the Educational Research Service, it cannot be reasonably maintained that this wage rate is intended to cover the nonworker between academic years.

As a matter of basic equity, we do not see why nonprofessional public school employees should be singled out for unequal treatment in the law. With the exception of professional athletes and school employees, all other major seasonal occupational categories are eligible to apply for unemployment insurance benefits. Certainly, no compelling need has been demonstrated for singling out nonprofessional school employees for unequal treatment under the law. And, as noted in the final report of the National Commission, there already exists adequate mechanisms within the Federal-State unemployment compensation system for denying unworthy benefit claims.

In recognition of the basic unfairness of this new Federal mandate, Representative Matsui and Mr. Chairman, yourself, recently introduced H.R. 4178, a bill which would restore the State option to provide unemployment benefits between academic years or terms to nonprofessional school employees. Congressman Pease is also a cosponsor of the legislation. Similar legislation is also pending in the Senate. It should be emphasized that this legislation merely restores the State's option to provide such benefits which existed prior to 1984. It does not impose a mandate upon the States that they must provide such benefit. It therefore follows the recommendation of the National Commission on Unemployment Compensation in this area.

We want to commend Representative Matsui, and you, Mr. Chairman, for introducing this important legislation, and we urge that the subcommittee include it in any comprehensive proposal to reform the unemployment compensation system.

We want to thank you, and the members of the subcommittee for the opportunity to testify before you, and we would be pleased to answer any questions at any appropriate time. Mr. Chuck Loveless will be here to assist me in those answers to you, Mr. Chairman.

And I thank you so very much.

[The statement of Mr. Hughes follows:]

STATEMENT OF CHARLES HUGHES, PRESIDENT, LOCAL 372, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES

Mr. Chairman, and distinguished members of the Subcommittee on Public Assistance and Unemployment Compensation, I am Charles Hughes, Chairman of the School Employees Advisory Committee of the American Federation of State, County and Municipal Employees (AFSCME) and President of Local 372, Board of Education Employees, District Council 37 in New York City. I am accompanied by Charles M. Loveless of AFSCME's Department of Legislation. We are appearing today on behalf of the more than 1.3 million members of AFSCME who work in state and local governments across the nation.

We commend the Subcommittee for holding this general oversight hearing on the need to reform the Federal-State Unemployment Compensation (UC) System and for reexamining the recommendations of the National Commission on Unemployment Compensation (the National Commission). While there are numerous pressing policy questions which should be addressed in this hearing, we want to use our allotted time today to raise an issue which was specifically addressed by the National Commission and is of critical concern to the hundreds of thousands of educational support employees across the nation. This issue is directly related to the question of the adequacy of coverage provided by the federal-state unemployment insurance system.

As part of the Social Security rescue package which was adopted by Congress in 1983, a provision was included requiring the states to deny unemployment benefits between academic years or terms to nonprofessional public school employees. As explained in the conference report on the Social Security Amendments of 1983, states are required to deny unemployment insurance benefits between academic years to nonprofessional employees of educational institutions and educational service agencies if the employees have "reasonable assurance" of returning to work in the next academic year. It is optional to the states to extend the between term denial to workers performing services on behalf of an educational institution or an educational service agency even though not employed by either the institution or agency. Prior to the adoption of this amendment, states were permitted to determine whether or not to deny unemployment benefits to such workers.

It should be noted that the automatic blanket denial requirement was added to the Social Security bill without the benefit of normal legislative deliberations. The provision was attached to the Senate version of the Social Security bill by Senator John Chafee during the Finance Committee's consideration of the bill. No hearings were ever held on the issue, and there was not a comparable provision in the House Social Security bill. The Chafee amendment was one of the last provisions to be resolved by the House and Senate conferees on the 1983 Social Security Amendments Act.

As a result of this new provision, many thousands of nonprofessional employees of elementary, secondary and higher education institutions have lost protection against unemployment between academic years or terms. While we have had only limited experience with the law since it was made effective for weeks of unemployment beginning after April 1, 1984, we already know that the impact has been devastating for many school workers and their families. As will be indicated below, educational support employees are among the lowest paid group of workers in the nation, with many working at or near the minimum wage level. The automatic blanket denial has created a major new financial hardship for thousands of nonprofessional school workers who are

temporarily out of work through no fault of their own. Many of these workers have had to apply for various forms of public assistance to make ends meet.

AFSCME represents approximately 100,000 educational support employees across the nation. These employees generally may be placed in two major categories: clerical and service-maintenance. The position titles of AFSCME members include custodians and general maintenance staff, cafeteria workers, bus drivers, school crossing guards, secretaries, clerical personnel, school aides, nurses and nursing aides. Women and minority group members are heavily represented in these positions.

A recent salary survey conducted by the Educational Research Service, Inc. which is set forth below as Attachment "A" clearly indicates the very low level of compensation received by nonprofessional school employees; many work at wage levels approximating the minimum wage. Typically, such workers are paid on an hourly basis during the nine month school period. Given the very low hourly rate of compensation, it cannot be reasonably maintained that this wage rate is intended to cover non-work periods between academic years.

It should come as no surprise that, with certain exceptions, most of these workers do not possess additional vocational skills to qualify for other jobs. Furthermore, many employers refuse to hire those employees who are able to qualify for other positions because they know that such employees can only work for them on a temporary basis. Accordingly, such employees are frequently unable to find other work during the period between school terms, and they thus are in every sense of the word "unemployed."

We believe there are several compelling policy reasons why the automatic blanket denial requirement imposed by the 1983 Social Security Amendments should be eliminated and states should be restored the option whether or not to have special denial provisions relating to nonprofessional school employees. First, as a matter of basic equity, we do not see why nonprofessional public school employees should be singled-out for unequal treatment in the law. This view is entirely consistent with the recommendation of the National Commission that "Federal law should be amended to remove all requirements for denial of benefits to employees of educational institutions and to limit the 'equal treatment' requirement applicable to public and nonprofit employees to permit States to handle between-terms issues as they wish to do under State law." Unemployment Compensation: Final Report, pp. 33-34.

We believe it is unconscionable to deny unemployment benefits between terms to the lowest paid group of public employees when other public and private employees performing work which is also characterized by regularly recurring lapses in activity are not denied such benefits under federal law. With the exception of professional athletes and educational employees, all other major seasonal occupational categories are eligible to apply for unemployment insurance benefits. Certainly, no compelling need has been demonstrated for a federal requirement singling-out this category of workers for unequal treatment.

The fact that the blanket denial requirement does not automatically apply to other groups of employees has led to anomalous results in many states. Some employees who perform educationally related duties but do not directly work for an educational institution or service agency are eligible to receive unemployment benefits between terms while those who are employed directly by the institution and may perform work of an identical nature are not. For example, in the State of Maryland, while many school crossing guards and nurses work for local school boards, large numbers are employed by other government units, including county policy and health departments. The latter group

is eligible to receive unemployment benefits between terms while the former is not.

A second major policy reason why the automatic blanket denial requirement should be eliminated is that there already exist adequate mechanisms within the Federal-State Unemployment Compensation System for denying unworthy benefit claims. All unemployment compensation applicants, including nonprofessional school employees, must satisfy the eligibility requirements set forth in state law for receiving such benefits. As noted by the National Commission, "(n)either does it follow that even without an automatic blanket denial requirement school employees will receive benefits. Relatively few of those off from work during school breaks or vacation periods would meet the availability for work and work search requirements of State laws." Unemployment Compensation: Final Report, pp.32-33.

Finally, we believe that the automatic blanket denial requirement has served to undermine the basic principles for which the unemployment compensation program was established in the 1930s. As noted in a recent General Accounting Office Report, the objective of the program "...has been to provide temporary protection for qualified workers who lose jobs until they can either be rehired or find new employment." Unfortunately, this basic objective of the program has been seriously compromised by the automatic blanket denial requirement imposed by the Social Security Amendments of 1983. In our view, this requirement mandating unequal treatment of nonprofessional public school workers calls into question the overall institutional integrity of the program.

In recognition of the major hardship this new federal mandate imposes on educational support employees, Congressman Matsui and Chairman Downey introduced H.R. 4178, a bill which would restore the state option to provide unemployment benefits between academic years or terms. A similar measure, S.2600, has been introduced in the Senate by Senator Spark Matsunaga. For the reasons outlined above, we would urge that the Matsui-Downey bill be incorporated in any comprehensive proposal to reform the Federal-State Unemployment Compensation System. This legislation follows the policy recommendation of the National Commission and would go a long way toward restoring equal treatment for educational support employees.

We thank the members of the Subcommittee for the opportunity to present this statement, and we would be pleased to answer any questions you may have.

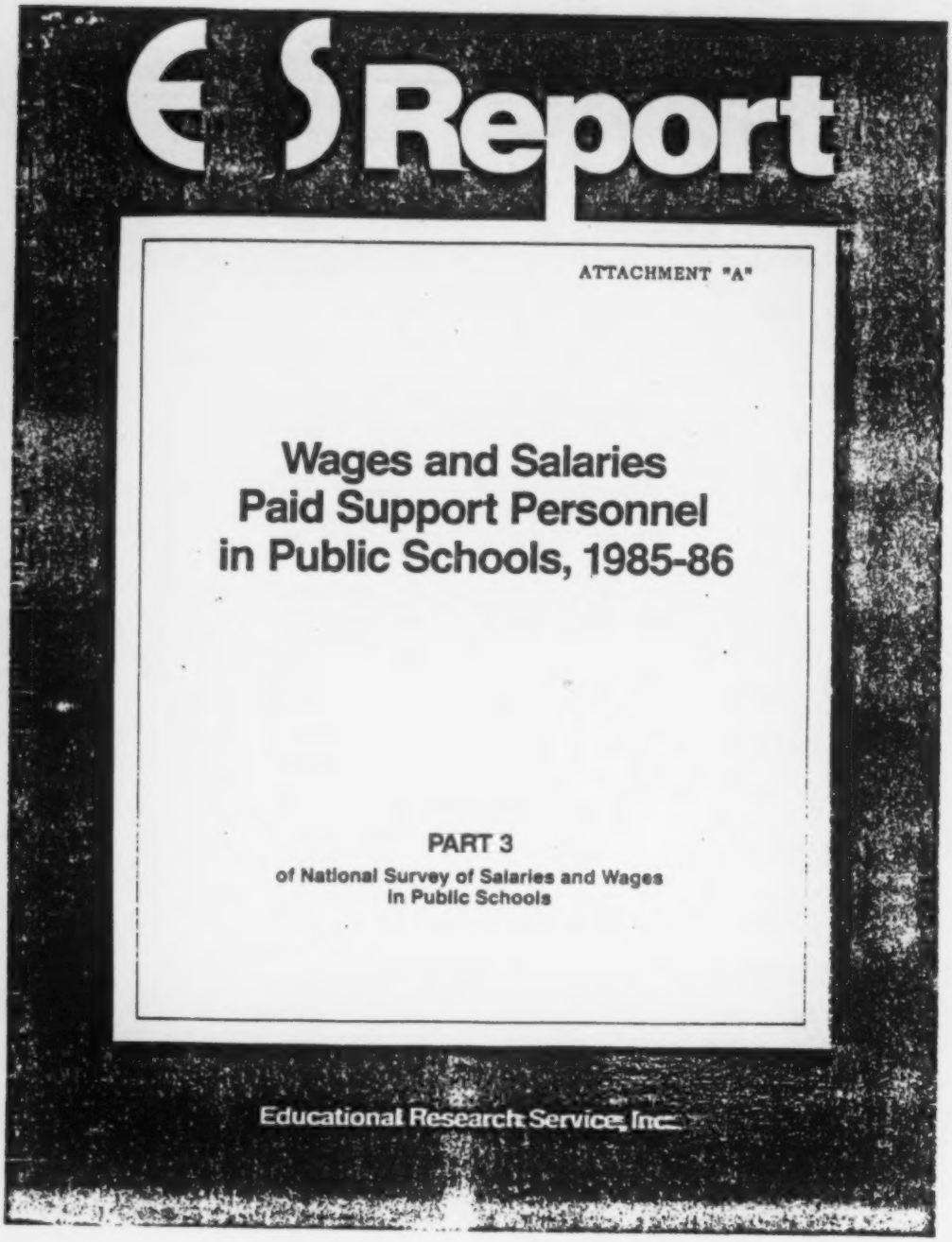

ERS Report
ATTACHMENT "A"
Wages and Salaries
Paid Support Personnel
in Public Schools, 1985-86
PART 3
of National Survey of Salaries and Wages
in Public Schools
Educational Research Service, Inc.

TABLE 2.--MEAN OF MEAN, LOWEST, AND HIGHEST HOURLY WAGE RATES PAID TEACHER AIDES, CUSTODIANS, CAFETERIA WORKERS, AND SCHOOL BUS DRIVERS IN REPORTING SCHOOL SYSTEMS, BY ENROLLMENT GROUP, 1985-86

POSITION	ENROLLMENT GROUP				
	25,000 OR MORE	10,000 TO 24,999	2,500 TO 9,999	300 TO 2,499	TOTAL-ALL REPORTING SYSTEMS
	MEAN OF MEAN HOURLY WAGE RATE				
TEACHER AIDES:					
INSTRUCTIONAL	$6.59	$6.34	$6.20	$5.80	$6.20
NONINSTRUCTIONAL	6.57	6.03	5.85	5.60	5.91
CUSTODIANS (NOT ENGINEERS)	7.25	7.30	7.38	7.15	7.26
CAFETERIA WORKERS (NOT SUPERVISORS)	5.99	5.82	5.75	5.58	5.76
SCHOOL BUS DRIVERS	7.86	7.65	7.51	7.99	7.72
	MEAN OF LOWEST HOURLY WAGE RATE				
TEACHER AIDES:					
INSTRUCTIONAL	5.43	5.30	5.34	5.23	5.32
NONINSTRUCTIONAL	5.49	5.20	5.19	5.22	5.23
CUSTODIANS (NOT ENGINEERS)	5.64	5.98	6.15	6.09	6.03
CAFETERIA WORKERS (NOT SUPERVISORS)	4.95	4.86	4.87	4.88	4.88
SCHOOL BUS DRIVERS	6.70	6.77	6.78	7.11	6.84
	MEAN OF HIGHEST HOURLY WAGE RATE				
TEACHER AIDES:					
INSTRUCTIONAL	8.33	7.42	7.13	6.50	7.23
NONINSTRUCTIONAL	7.92	7.03	6.57	6.11	6.70
CUSTODIANS (NOT ENGINEERS)	9.56	8.90	8.84	8.39	8.83
CAFETERIA WORKERS (NOT SUPERVISORS)	7.52	7.16	6.87	6.41	6.91
SCHOOL BUS DRIVERS	9.10	8.56	8.44	8.78	8.65

Acting Chairman DOWNEY. Thank you, Mr. Hughes.
Mr. Avrutis.

STATEMENT OF RAYMOND AVRUTIS, AUTHOR, WASHINGTON, DC

Mr. AVRUTIS. Thank you, Mr. Chairman. My name is Raymond Avrutis. I am unemployed, and am the author of a book, "How To Collect Unemployment Benefits: Complete Information For All 50 States," published by Schocken Books in 1975, second edition published by Prentice Hall in 1983. Out of print and seeking a new publisher.

Let me summarize my testimony by first giving some of my recommendations for reform.

One, give sympathetic newspaper reporters information about how the Reagan administration has weakened the UI program.

Two, either allow initial UI claims by mail nationwide, or open up the 800 or so unemployment offices that have been closed since 1981.

Three, assign Federal regional office and/or headquarters UI staffers to call or visit local unemployment offices throughout the nation, pretending to be claimants. Some of the answers local offices will give may be erroneous and illegal, and may be the grounds for creating an unemployed person's bill of rights.

Four, order the U.S. Department of Labor to restart publication of two magazines, the "UI Review" and "UI Statistics." Hire me as the assistant editor of the "UI Review."

Five, I endorse the two-thirds maximum. Had the two-thirds maximum been in effect in 1982, the maximum in New York State would have been approximately $218. Now, it would have been $315 in 1988.

Six, because Hurricane Gilbert will cause an unknown amount of unemployment when it hits Texas and goes inland, starting tomorrow, the subcommittee may want a copy of my article about disaster unemployment assistance that I wrote 2½ months ago for farmers.

Much of the article applies to any disaster. The article needs an editor. I gave it to the subcommittee's secretary before the hearing began.

Finally, I would like to read the last two paragraphs of the Labor Department's review of my book in the August 1975 edition of "Manpower." The review was by Roger A. Rossi, then chief of the Division of Research Services, Unemployment Insurance Service, U.S. Department of Labor, the headline, "An Important How-To Book." The last two paragraphs.

> The phrase on the cover of his book—you worked for it, now collect it—captures the essence of the UI program as conceived by its originators, and enacted by the Social Security Act of 1935. The characteristic of earned right distinguishes UI from programs requiring a needs test. Throughout his small volume of 111 pages, the author translates the complexities of varying State Department of Finance requirements . . . and nonmonetary qualifications for benefits into simple, straightforward English. This reviewer has not read a UI volume so small in size that contains so much usable information for workers, both employed and unemployed, employers, the general public, and those administering the UI program.
>
> This book is a valuable tool for unemployed workers to learn about their rights and responsibilities, and about the process for exercising their earned rights. Many unemployed persons who are fully entitled to UI benefits do not claim them and

this has been true ever since the program's enactment 40 years ago. Avrutis's book should help to eliminate some of the ignorance about the UI program.

I gave both editions to the Labor Department for review. I would like to see either the Labor Department or the Congressional Research Service write a better book for the nationwide consumption of the unemployed. If they can't they can pay me royalties.

[The statement of Mr. Avrutis follows:]

Statement of Raymond Avrutis, unemployed, author of How to Collect Unemployment Benefits: Complete Information for All 50 States, published by Schocken Books in 1975; 2nd edition, by Prentice Hall in 1983. Out of print.

Mr. Chairman, members of the Subcommittee, thank you for permission to testify. I have collected unemployment insurance (UI) 12 times since 1966, and have exhausted 11 of my UI claims. I am currently unemployed.

Mr. Chairman, if the president of the United States unilaterally closed one-fourth of all U.S. military bases, and had understaffed many others, he would be doing America a great disservice. But this is exactly what Ronald W. Reagan did to the economic defense of this country. UI has long been recognized as the first line of defense in a recession. But when president Reagan's former Labor Secretary, Raymond Donovan, closed one-fourth of all U.S. unemployment offices in 1981 and in 1982, he was carrying out Reagaon's mission of declaring was on the unemployed.

Although the president is supposed to guard and protect America against, "all enemies, foreign and domestic," president Reagan's UI policies have assigned an army of industrial-strength termites to the nation's unemployment offices. One recent move, for example, transferred everyone from the Labor Department's Unemployment Insurance Service out of spacious offices at the Patrick Henry Building, to large bullpens with shoulder-high dividers at the Main Labor Building. At last report, only $50,000-a-year GS-14's and above get a private office. The constant noise, where you can hear people converse two cubicles away, may be bad for morale and productivity. RECOMMENDATION: Give sympathetic newspaper reporters information about how the Reagan Administration has weakened UI.

Shoulder to shoulder, federal UI staffers are never far from each other. By contrast, some unemployed people must drive 60 miles to reach an unemployment office, and if it's winter, they must wait in line in the snow. In Canada, UI initial claims are made by mail from the local Post Office. RECOMMENDATION: Either allow U.S. initial claims by mail, or open up the 800 or so unemployment offices that have been closed since 1981.

In 1975, roughly 75 percent of America's unemployed received UI. But this figure declined to around 50 percent in 1980, and to about 33 percent in 1986. The Labor Department commissioned a study by Mathematica, Inc., that examined 12 variables, among others, and concluded that between 13 and 68 percent of the variance cannot be explained. My master's thesis-in-progress at the labor studies department of the University of D.C., "Where Have All the Claimants Gone: An Analysis of Declining Participation of America's Unemployed in the Unemployment Insurance Program, 1975-1986," does not explain much of the variance, either. But my thesis does make points that are discussed in the next four paragraphs.

Now much emphasis in the Labor Department is placed on catching cheaters, rather than having an outreach program to tell people what their rights are. Less time is spent hassling employers who don't pay their Federal Unemployment Taxes, or who lie to claims examiners about the circumstances of a claimant's job separation. (Yes, some claimants lie, too.) But it appears that no thought is given to officials at local unemployment offices who act illegally to deny benefits to the unemployed.

In Maryland, for example, first payments are promptly made to adhere to the Labor Department's time lapse requirements. But if an employer raises an issue on a claim, the local office suspends payments for up to two months while waiting for a determination -- in direct violation of the U.S. Supreme Court's Java decision, which says that UI benefits must be paid pending an employer's appeal.

This writer's Maryland UI claim had three checks remaining when an issue was raised in April, 1987. When the issue was decided in my favor six weeks later, I had only two checks remaining. Perhaps I had miscounted my checks, or perhaps someone at the Wheaton Plaza unemployment office had embezzled one of my unemployment checks.

Here in Washington, D.C., unemployed people are turned away from most but not all of the city's five unemployment offices if they arrive after 10:00 a.m. to file a claim, even if the daily qouta has not been reached. In Bedford, Pennsylvania, claimants are told that they must have 18 consecutive weeks of work to qualify for UI, not 18 total weeks in the base period, as Pennsylvania law states. In New York State, 20 percent of the total UI staff was laid off in October, 1987, after budget cuts. As a result, it often takes several months for an interstate claimant to be paid. RECOMMENDATION: Assign federal Regional Office and/or headquarters UI staffers to call or visit local unemployment offices throughout the nation, and pretend to be claimants. Some of the answers local offices will give may surprise you.

Statistics on the timeliness of interstate first payments were published in the monthly magazine Unemployment Insurance Statistics, which the Carter Administration ceased printing in 1980. (The statistics are still gathered, but you must know who to ask in the Labor Department to obtain them.) Also, UI, a $15-billion-a-year program, has not had a general monthly magazine about the program since the Unemployment Insurance Review ceased publication in December, 1968. RECOMMENDATION: Re-publish these two magazines, and hire me to be the assistant editor of the Unemployment Insurance Review.

Finally, in case of a catastrophic natural disaster, such as a hurricane hitting Texas, my UI information, i.e., about how to collect the maximum UI to which you are entitled, may prove beneficial to people in disaster areas who are trying to survive. I am available to work in UI from Washington, D.C., and I await your summons. Thank you for your consideration.

Acting Chairman DOWNEY. Thank you, Mr. Avrutis.

I want to thank all the panel members. Mr. Hughes, I agree completely with you that there is no justification, as far as I could tell, for this exemption of athletes and nonprofessional school employees.

Ms. Hedges, I would like to sit down and listen to what the NGA has to say about the administration of the program and its financing, because, clearly, that is an important part.

I am intrigued by the idea that the States collect their own revenue. That is one of the thousands of flowers I would like to see bloom out there in the nation, and it is certainly something to look at.

Mr. Freeman, what I have said to Ms. Hedges would apply as well to your organization. We want to pay careful attention to that.

Mr. Avrutis, what you need is another recession, and you could be all set. I commend you for the work that you have done, making it easy for people to understand what their rights are. Clearly what these hearings have indicated is that there are too many people who do not know what their rights are and who do not avail themselves of these rights.

Mr. AVRUTIS. I also believe that many unemployment offices turn away claimants who have valid claims. My written testimony talks about this.

Acting Chairman DOWNEY. Thank you. I thank all of you.

The subcommittee stands adjourned.

[Whereupon, at 3:45 p.m., the subcommittee was adjourned, subject to the call of the Chair.]

[Submissions for the record follow:]

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
CHICAGO 60601

JAMES R. THOMPSON
GOVERNOR

**Statement of the Honorable James R. Thompson,
Governor, State of Illinois
to
the Subcommittee on
Public Assistance and Unemployment Compensation,
Committee on Ways and Means,
United States House of Representatives,
September 15, 1988.**

I would like to share with this committee some of my concerns for the State /Federal Employment Security System. These concerns are based upon my own experiences working to solve problems facing the Illinois System.

We have had to solve serious problems in employment security -- problems related to the economic difficulties experienced in the recent past, by all large industrial states. We are in the process of emerging from economic restructuring which has affected our traditional industries. Because of this restructuring and changing demographics, solutions that have worked in the past may not work in the future. Most importantly for this discussion, our Unemployment Insurance Trust Fund was in debt from 1975 until 1987. Illinois has solved this problem itself by making the hard choices which balanced the needs of claimants and employers. We are now solvent thanks to the commitment of Illinois lawmakers, labor leaders, and business owners to develop a solution which was in the best interest of the State as a whole.

In addition to the Unemployment Insurance problems, Illinois' Job Service program faces continuing reductions in federal allocations of administrative funding. In response, we invested in automated systems to improve service to both the job seeker and the employer in need of workers. This was accomplished while lowering the cost of providing these services. Even though resources for this program have declined, we have increased the number of private sector job openings listed with our Job Service and have expanded access to the automated systems to other state agencies.

These are state solutions to state problems. We can do much more in Illinois, but we are frequently frustrated by the restrictions imposed at the federal level. This is an important issue because Employment Security programs in part shape the state's competitive economic position. The states need the flexibility to aggressively pursue solutions to the problems created by international competition and the increasing velocity of economic change. Based upon our experiences, I can assure you that we need to improve and strengthen the current system. Change is crucial.

Change is beginning in the system. In March of 1985, a Report to the House Committee on Appropriations addressing the non-personal services funding of unemployment insurance activities recommended changes in the allocation of Federal Unemployment Tax Act tax dollars. We endorse that recommendation. Illinois has been an active participant in the United States Department of Labor's 1986 Hearings on Job Service and on Unemployment Insurance funding. We continue to be actively involved with the National Governors' Association Workgroup on Employment Security Funding and Reform.

The initiatives of the current administration have stressed the need for States to assume responsibility and to be accountable for their individual programs rather than to continue to rely on the federal government.

The Congress should encourage a continuation of these efforts to improve this system.

One major focus should be on the problems with the current method of allocating administrative financing for employment security agencies. This methodology:

* Encourages short-term solutions by forcing States to spend all allocated funds in the current budget period or risk recapture of the money by the Department of Labor.

* Promotes inefficient and ineffective management by failing to provide incentives for sound operating procedures.

* Removes authority and oversight responsibility from governors and state legislators who are directly responsible for the state legislation under which the program operates.

* Undermines the ability to plan due to the variability and uncertainty of funding. For example, federal fiscal year 1988 began October 1, 1987 but notification of available funds was not received until March of 1988.

* Attempts to create a workload driven system based upon industrial engineering work measurement techniques, but has failed to fully fund the results of this effort and, in recent years, has even stopped measuring because of an apparent recognition of the problems inherent in this approach. In particular, this mechanism fails to recognize fixed costs which are independent of workload.

* Creates "winners" and "losers" among the states, and encourages states to try to increase their own state's allocation at the expense of other states. This rivalry is unproductive and does very little to foster the Federal-State partnership which is necessary for a true national system of Employment Security.

These problems evolve out of the process that determines the level of federal appropriation of administrative funds, the allocation of these funds to the states, and the restrictions placed on state flexibility to expend these funds to meet unique state needs. This lack of control seems to be inconsistent with the fact that the states are almost solely responsible for their unemployment insurance trust funds.

In Illinois, extraordinary economic dislocations drove our Unemployment Insurance Trust Fund into bankruptcy and we borrowed over $2.5 billion to enable us to continue to pay unemployment insurance benefits. I committed Illinois to repaying those debts when I signed documents to borrow the necessary funds. We satisfied that responsibility and completely repaid all of the loans. Since states are already responsible for the majority of the costs of the Employment Security System, have demonstrated their ability to manage their systems, and are bound to enforce the provisions of state laws which govern the programs, I feel that states should have more control over the administration of these programs.

The very real problems of international competition and the velocity of economic change put a premium on flexibility. States must be free to "work smarter" -- better plan for their own long-range needs, react appropriately to a changing economic environment, and practice sound management. The needs of our next generation -- the class of 2000 -- require that we be able to design and carry out long-range plans. Our experience has shown that change can be planned for and accommodated by using a broad

coalition of government, labor, and business. We must bring together all interests in compromise to achieve more comprehensive and workable reform.

The concerns expressed by Congress, the Administration, the Department of Labor and the individual states indicates the real need for meaningful reform of our Employment Security System. Towards this end, Illinois strongly endorses the policy statement recently developed and approved by the National Governors' Association.

This policy supports the concept of a national system of employment security which provides for a basic level of service to all users of the programs but also allows each state the flexibility to design those specific services that are most needed by the individual state. In other words, the policy recognizes that states are different, that our world economy changes rapidly, and that timely responses designed to meet the specific needs of the individual states are required.

In conclusion, the Employment Security System can and must be improved. We must make all of the changes necessary to help us compete successfully in the world economy. Employment Security programs do make a difference. That is why Illinois is committed to working for improvements in this system.

Thank you for this opportunity to present this testimony. If there are any questions or a need for clarifications, please contact Sally A. Jackson, Director; Illinois Department of Employment Security; 401 South State Street; Chicago, Illinois 60605 or call her at (312) 793-5700.

PERSONNEL IN EMPLOYMENT SECURITY

September 21, 1988

Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

The International Association of Personnel in Employment Security appreciates the opportunity to provide written testimony regarding the Federal State Unemployment Compensation System. Our organization represents 23,000 employees throughout the United States working in the job service, unemployment insurance, and labor market information and other support services. We also have another 3,000 in Canada, Japan, the Republic of China and other foreign countries.

As the workers in the system, we appreciate the interest of Congress in reviewing one of the major componets of the Employment Security System. As one of the legs of the economic stool, Unemployment Compensation has served this country effectively as an economic stabilizer. With a changing economy and the challenges of the workforce before us, however, it is timely to review the program.

I have attached are various position on Unemployment Insurance and areas of concern. I trust the committee will find it useful. If we can provide any additional information or provide any assistance in your review of the program, please do not hestitate to contact me or our Executive Director, Michael Stone.

Sincerely,

Maryann T. Polaski
President

1988-89 INTERNATIONAL OFFICERS

President	President Elect	Vice-President	Secretary-Treasurer	Past President	Executive Director
Maryann Polaski	Rick Hemming	Darrell L. Wallace	Helen M. Davelos	Gary Adkins	Michael R. Stone
254 Farrington Blvd	1000 East Grand Ave	ES Division KG-11	17108 W. Celimyna	401 SW Topeka Blvd	1801 Louisville Road
N. Brunswick, NJ. 08902	Des Moines, IA. 50319	Olympia, WA. 98504	Fresno, CA. 93711	Topeka, KS. 66603-3182	Frankfort, KY. 40601
Office (609) 292-2333	Office (515) 281-8083	Office (206) 438-4063	Office (209) 445-5720	Office (913) 296-5156	Office (502) 223-4459
Home (201) 821-0295	Home (515) 255-1595	Home (206) 943-6367	Home (209) 431-9282	Home (913) 357-4400	

★★★★★ *MAKING A DIFFERENCE* ★★★★★

Testimony for
Subcommittee on Public Assistance
and Unemployment Compensation
Committee on Ways and Means

from

International Association of
Personnel in Employment Security

Association Positions

1. The integrity of the federal-state partnership must be preserved. The partnership has served the United States well for over five decades. It has proven flexible and responsive to the needs of the citizens. In the unique federal-state system, federal law has established broad minimum guidelines that states may exceed according to local needs. This successful federal-state partnership is a model for all levels of government working together for the common good of the nation's employers and workers.

2. The federal-state structure of unemployment insurance must be preserved as a vital and flexible system of providing insurance protection for employers and workers. The unemployment compensation provisions enacted in the Social Security Act of 1935, had a major goal of establishing a fair and favorable national economic climate in which employers and workers could have an insurance protection program. The unemployment compensation system was constructed for states to adjust to local needs, with federal guidelines to minimize competition between states in regard to taxing employers. The federal presence ensures workers are protected, without regard to the state in which they choose to reside, and employers are free to set up businesses in multi-state locations.

3. Revenues generated from collection of the Federal Unemployment Tax, sometimes called FUTA, should be used solely for the administration of Employment Security functions. This tax, paid by employers, was conceived to generate revenues to pay the cost of administering the basic services - Unemployment Insurance benefit payment and tax collection; Job Service placement, counseling, testing and related complementary functions; Veterans Employment Services; and Labor Market Information analysis and reporting. Using FUTA revenues for ancillary programs curtails funding for the basic system and limits its effectiveness. Ancillary programs, brought on by temporary dysfunctions or due to sustained nation-wide economic down-turns, should be funded from general revenue.

4. The budgeting process for the Employment Security System should be revised to promote optimum efficiency. There are three major problems with the current budgeting process: (1) the budget cycle has been a year by year process, often hampered by continuing budget resolutions, resulting in confusing and conflicting decisions; (2) passage of the Job Training Partnership Act has resulted in the components of the System operating on different budget cycles, making joint planning of these inter-dependent programs almost impossible; and, (3) Unemployment Insurance programs are heavily staffed with temporary workers because of constant under-estimation of the level of insured unemployment.

These problems would be resolved by (1) instituting a biennial budget cycle; (2) establishing unified budget periods for the components of the system; and, (3) agreeing to a definition of base workload that is consistent with the actual level of covered unemployment.

Association Concerns

1. INADEQUATE FUNDING OF THE ENTIRE EMPLOYMENT SECURITY SYSTEM.

While there is a surplus in the FUTA account of approximately 1.5 billion the Employment Security System has been underfunded. Unemployment Insurance has taken not only workload cuts but productivety improvement cuts. The UI system is supposed to be funded by a cost model system which pays minutes per unit of work. Over the past two years only approximately 70% of the actual minutes per units has been funded. Many agencies are bare bones and no longer in a position to respond to any increases in workloads. The integrity of the system may be questioned at a later date because of lack of a skilled workforce. The integrity of the Unemployment Insurance System is also tied to the strength of its partners the Job Service and Labor Market Information. The funding for these programs has also been reduced over the years. National staffing of Job Service offices stood at 30,000 in the mid-1970's. With recent reductions in appropriations, that staff level now is estimated at 18,000. It is important to note that the volume of workload has continued in spite to today's lowering unemployment rate. An 8 percent unemployment rate of the 94 million labor force in 1975 equalled 7.5 million unemployed Americans. An unemployment rate now of 5.8 percent equals 7 million unemployed Americans. In program year 1986, the Job Service placed almost 4 million persons nationwide. It follows that if staff had remained constant, or if SESA productivity had been increased through enchanced automation, the system would have had the capacity to serve one-third more persons, which would translate into placements of more than 5 million persons. That could mean a lowering of the unemployment rate by more than 1 percent; and according to the Congressional Budget Office, that would mean more than $40 billion saved from government expenditures on entitlement programs such as Food Stamps, Unemployment Insurance, etc. Even with such continued spending, the ESAA still would have a surplus of almost $1 billion, and tax revenues would increase since there would be more wage earners. The Job Service is an economic program that pays a big dividend. It is estimated that for every $1.00 reduction in administrative funds for UI there is a loss of $6.00 to the fund. The system's inability to conduct a quality operation results in these "leakages". Job Service, LMI, and UI need to be strong and serve as a coordinated system for our Nation's economic stability.

2. EROISION OF THE BASIC SYSTEM.

UI was established to provide temporary benefits and serve as a safety net for those workers laid off thru no fault of their own. The tightening of eligibility requirements has left many workers without this basic benefit. There are several studies underway to address this issue. The bottom line is that if the economy should begin to see the Unemployment Insurance Rate rise, our basic economic stabilizers will not provide benefits to thousands of workers. The result will be a lack of benefit dollars in the system to assist in keeping money flowing in the economy. The Federal changes in the 80's to the Extended Benefits Program have added restrictions in both qualifying and eligibility that have limited the Extended Benefits Program in meeting the needs of the long-term unemployed. We strongly support the Extended Benefits Program, but it should be modified so it would better meet the needs of the long-term unemployed.

3. LACK OF A NATIONAL EMPLOYMENT POLICY.

To attain national economic security, a comprehensive National Employment Policy is needed to address the United States Constitution's charge to insure the blessings of liberty for every citizen. The policy needs to clearly define who, what, why, when and how employment is accomplished. The policy must consider all components that ultimately affect the ability of an individual to secure a job. These include Constituencies, Defense and Mobilization, Economic Development, Education, Employment Standards, Health Services, Labor Exchange, Social Services, Training and Retraining and Vocational Rehabilitation. The effective and efficient implementation of this employment policy will lead to the attainment of full human potential for every citizen. This lack of policy may have contributed to the funding problems for UI and the rest of the Employment Security System. Our appropriation was based on projected workloads but without a clear cut direction for the programs. The issue of full employment has not been addressed for many years. The dislocated worker has been primarily addressed by JTPA. The association applauds the efforts of NGA which recently passed a Employment Security Policy which addresses goals and the financing required to achieve these goals. The policy should lend significance to debates in Congress regarding the future of the Employment Security System, and its role in our overall economic policy.

4. ALTERNATE USES OF UI TRUST FUNDS.

We believe that the 70's and 80's have proven that the State Unemployment Insurance funds have a serious solvency problem with 38 states finding it necessary to borrow during this time period. All reports indicate to us that should the Nation have a serious nationwide recession for any period of time, most states would find it necessary to borrow Unemployment Insurance funds. We agree the system needs to react to the changing labor force and new programs and options should be developed. These programs and options, however, should not be at the expenses of our most important economic stabilizer and general funding sources may have to be considered.

INTERNATIONAL UNION, UNITED AUTOMOBILE, AEROSPACE & AGRICULTURAL IMPLEMENT WORKERS OF AMERICA—UAW

OWEN F. BIEBER, PRESIDENT BILL CASSTEVENS, SECRETARY-TREASURER

VICE PRESIDENTS

DONALD F. EPHLIN • ODESSA KOMER • MARC STEPP • STEPHEN P. YOKICH

September 26, 1988

Honorable Thomas J. Downey
Acting Chairman
Subcommittee on Public Assistance and
Unemployment Compensation
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This communication is to share with you and the members of your Subcommittee the views of the UAW on the need to reform the Federal-State Unemployment Compensation System. Please include this letter as part of the hearing record of the Subcommittee on this subject.

Since its inception, the UAW has had an interest in the development of the unemployment compensation system. We have fought hard over the years to attempt to insure that the unemployment insurance program serves its intended purpose -- providing adequate wage replacement in the form of timely benefits to unemployed workers.

Unfortunately, the system is not serving its intended purpose. According to the Center on Budget and Policy Priorities:

- The percentage of unemployed workers receiving unemployment insurance benefits in 1987 set a record low for the fourth consecutive year. Fewer than one in three (31.5 percent) of the unemployed received benefits in an average month. On average, more than five million unemployed people did not receive unemployment insurance benefits each month last year.

- The number of unemployed without unemployment benefits in 1987 was nearly as high as the 5.8 million workers who did not receive benefits in 1982 and the 6 million without benefits in 1983, when the unemployment rate was near the 10 percent mark. From 1983 to 1987, the number of unemployed workers dropped by 31 percent, but the number of unemployed without benefits dropped by only 15 percent.

- If the same percentage of the unemployed were receiving unemployment insurance in 1987 as in 1978, about 900,000 additional workers would have received benefits in an average month in 1987.

- Many of the unemployed who are poor and who do not receive unemployment insurance also fail to receive much cash assistance from other government programs. Two-parent families with an unemployed worker may receive cash assistance from the Aid to Families with Dependent Children with an Unemployed Parent (AFDC-UP) program. Twenty-seven states and the District of Columbia have such a program statewide. However, in the typical state with an AFDC-UP program, benefits for a family of four with no other income have declined by 28.9 percent since 1970, after adjustment for inflation. In addition, in the 23 states without a statewide AFDC-UP program, unemployed workers who are without unemployment insurance and who live in two-parent families usually receive no federal cash assistance.

To make matters worse, many of the unemployed and their families are among the 37 million Americans who have no health insurance at all.

In June 1980, the National Commission on Unemployment Compensation (NCUC) issued its final report to the President and to the Congress. The NCUC -- made up of representatives from labor, business and the public -- conducted the most comprehensive review ever done of the unemployment insurance system.

Yet today, because the Reagan Administration ignored the Commission's work and pursued policies, as your announcement for this hearing pointed out, that in many cases

were the opposite of what the Commission recommended, the UI system is in worse shape today than it was eight years ago when the Commission issued its report.

In what follows, we will comment on the most important aspects of the UI system. In almost every area, the reforms called for by the National Commission remain relevant today.

Financing of Benefits

In 1939, 98 percent of wages were subject to unemployment insurance taxes. Today it is just 34 percent. Underfunding the unemployment insurance system keeps benefits low and provides the rationale against attempts to expand the system. When great demands are placed on the system during periods of high unemployment -- such as we have experienced in the 1980s -- the states must either go into debt to pay benefits or restrict access to benefits. Another option (resisted by many business interests) -- raising sufficient revenues to provide protection for all our unemployed -- is not pursued because it would destroy the rationale for curtailing benefits.

As the General Accounting Office pointed out in testimony before your Subcommittee in December 1987:

> "(T)he UI system remains financially fragile. The number of trust funds with adequate reserves has declined and is likely to increase only moderately even if the economy remains strong. Meanwhile, individual trust fund insolvency has increased dramatically and despite the length of the current economic expansion, seven state trust funds remain insolvent today. Economic projections suggest a significant increase in such insolvencies in the event of another recession, with inadequate reserves leading to increases in borrowing from the federal government to pay benefits."

The UAW has repeatedly argued that the unemployment insurance financing program should be based on a uniform federal tax. In the absence of such a tax program, however, federal standards which will improve the finances of the present federal-state system are essential. The current system is simply not working.

The National Commission recommended that the Federal taxable wage base be indexed at 65 percent of the average annual wage. It was suggested that this indexing be phased in over a period of seven years. If the Commission recommendation had been adopted the taxable wage base would be $13,370 on January 1, 1989. Today only four states have a taxable wage base higher than $13,200. In 35 states, the taxable wage base is below $10,000, and 16 states remain at the Federal level of $7,000.

The UAW supports the Commission recommendation because we believe that indexing the Federal taxable wage base is the best way to ensure the solvency of the UI system. In the long term, we think the taxable wage base should be increased to the same base used to compute the Federal Social Security tax.

Financing of Administration

Since 1981, an increasing amount of employer Federal Unemployment Tax Act (FUTA) taxes collected to pay for state administration of unemployment insurance programs has been retained in the federal trust funds, rather than being appropriated by Congress for use by state agencies. As a result, state agencies have been withering on the vine for lack of administrative funds. State agency layoffs and office closings in many states have reduced services to the unemployed. Some states have been forced to spend state tax dollars to administer their unemployment insurance programs, an unprecedented step in the 50-year history of unemployment insurance.

In Michigan, for example, there were 4,000 employees at unemployment offices in March, 1980. In 1987, there were only 1,500. As recently as 1984, there were 110 unemployment offices in Michigan, now there are only 64. Much the same has happened in many other states.

The result of this severe decline in administrative financing is reduced services to claimants. If Congress wishes to assist the unemployed in finding jobs and insure the prompt payment of benefits, it should heed the recommendation of the National Commission:

> "The Federal unemployment trust fund, which includes the state trust fund accounts, should not be included in any totals of Federal income and disbursements in the unified Federal budget."

Promoting Efficient Administration

In its final report the National Commission stated:

> "Fraud and abuse in unemployment insurance are a widespread public concern . . . Mispayments in UI can be both overpayments and underpayments . . .
>
> "Consideration should continue to be given to the vital importance of paying benefits promptly when due, even though this may mean, particularly during a period of high unemployment, that error rates are higher than otherwise would be acceptable. Both the prompt payment of benefits and the control of error and fraud are vital considerations.
>
> "Any development to improve one of these must be evaluated in terms of its impact on the other."

In contrast to the balanced view of the Commission, the Department of Labor's Quality Control Program is exclusively an audit program of claimants. The program does not include audits of denied claims or of revenue collections.

Another Commission recommendation that should be given serious consideration is the following:

> "The Secretary should make available to states administrative grants to fund an office of ombudsman in each state to provide claimant and employer assistance and counseling."

In our view, an independent claimant representation section should be part of each office.

Need For Federal Benefit Standard

The UAW believes that benefit levels are too low in most states. Benefit levels are especially inadequate for claimants with low wage records who are penalized by the low replacement rate in most states, and for claimants whose benefit levels are limited by the low maximum rates set by most states.

When the Commission issued its report in 1980, 12 states provided benefits up to two-thirds of the state average weekly wage; today just six are at that level. In 1980, the average weekly benefit amount was 36 percent of the average weekly wage; last year the average weekly benefit amount was still 36 percent of the average weekly wage.

The Commission recommended two important Federal Benefit Standards:

1) a 50 percent wage replacement rate; and

2) a maximum weekly benefit of at least two-thirds of the state average weekly wage.

These recommendations, if implemented, would be a much needed improvement in UI benefits. The UAW would like to see benefits pegged to at least two-thirds of the worker's average weekly earnings in the highest earnings quarter of the base period with a maximum benefit no lower than three-quarters of average weekly earnings in all covered employment.

Federal Eligibility

Today just eight states provide coverage for agricultural workers on farms with fewer than ten employees. Farmworkers, as the Commission stated:

> ". . . are faced with trying to make a living in an occupation with fewer and fewer jobs, one characterized by hard physical labor, low pay, and seasonal layoffs. Their exclusion from coverage is not only discriminatory, it denies the program's protection to a segment of the workforce that needs it most."

The UAW believes that all agricultural workers should be covered by the UI system.

Another problem that could be allievated by federal standards is the denial of UI benefits (as part of the 1983 Social Security amendments) to custodial, cafeteria and other workers in our school system. Unemployment insurance should not be denied

employees of educational institutions during summer vacation and between terms, simply because their employer has not formally terminated their employment.

The Commission recommended that no more than 39 weeks of work be required for 26 weeks of benefits. The UAW believes that workers should be eligible for unemployment insurance coverage if during the 52-week period prior to their unemployment (1) they have worked a minimum of 10 or more weeks or, (2) they have worked some time and can show that they would have worked the 10 or more weeks but for employer action which precluded such work.

Benefits for the Long-Term Jobless

Although the unemployment rate in 1987 fell back to its 1978 level, the average length of unemployment in 1987 (14.5 weeks) was two and a half weeks longer than in 1978 (11.9 weeks). The number of long-term unemployed also remains well above historic levels. In 1978 there were 648,000 workers unemployed for six months or more. In 1987 there were 1,040,000 long-term unemployed, a 60 percent increase compared with 1978.

While long-term joblessness has increased, changes in the unemployment insurance program have scaled back the Extended Benefit (EB) program. Under the EB program, a jobless worker who has exhausted all regular benefits may receive up to 13 additional weeks of benefits. To offer extended benefits a state's unemployment level must exceed a threshold. In 1981 these thresholds were raised making it nearly impossible for states to qualify for extended benefits.

The National Commission's recommendations to strengthen the extended benefit program have not only been ignored by Congress and the Administration, but the Reagan Administration has changed the EB program in ways that have virtually eliminated extended benefit coverage for the long-term jobless. Today, despite an increase in long-term joblessness, no state is paying extended benefits.

The lack of coverage for the long-term jobless requires immediate reform. The UAW has testified before this Committee in support of legislation sponsored by Congressman Pease and others -- the Extended Unemployment Insurance Reform Act.

The UAW views this legislation as an important first step towards a more comprehensive program which provides that an eligible unemployed worker be entitled to receive unemployment benefits for as long as he or she is involuntarily unemployed up to a maximum of 52 weeks. When the unemployment rate, either in the nation or in the area in which the worker lives, exceeds four percent, the standard should provide for an extension of benefit duration to at least 65 weeks.

UI Trust Funds and the Unified Budget

I have already noted that the UAW supports the recommendation of the National Commission to remove from the unified federal budget all unemployment trust funds. These monies are reserved for the payment of unemployment insurance benefits and administrative costs. Their inclusion in the budget for bookkeeping reasons should be discontinued.

Taxation of Benefits

Taxation of unemployment insurance should be repealed. Federal taxation of unemployment insurance benefits is, in effect, a federally mandated reduction in benefit amounts which only exacerbates the need for increased weekly benefit amounts.

Conclusion

The UAW congratulates this Subcommittee for focusing on problems in our unemployment insurance system and calling attention to the recommendations of the National Commission on Unemployment Compensation which we believe are a useful guide to meaningful UI reform. The UAW looks forward to working with you and other members of Congress on this issue which is so critically-important to unemployed workers and their families.

Sincerely,

Dick Warden

Dick Warden
Legislative Director

opeiu494
DT3:ML Downey 9/26

RECEIVED
Ways and Means
OCT 27 1988

STATE OF NEW JERSEY
DEPARTMENT OF LABOR

CHARLES SERRAINO
Commissioner

INCOME SECURITY
LABOR AND INDUSTRY BUILDING
TRENTON, NEW JERSEY 08625-0058

JAMES A. WARE
Assistant Commissioner

October 20, 1988

COMMITTEE ON
RECEIVED
OCT 27 1988
WAYS AND MEANS

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

On September 15, 1988, a public hearing was held on the need to reform the Federal-State Unemployment Compensation System. At the hearing a re-examination was to be made of the recommendations of the National Commission on Unemployment Compensation in 1980. In doing so, reforms are to be considered in view of presently low unemployment and improved financial conditions.

The federal-state partnership must be protected and enhanced as a vital and flexible system of providing social insurance to unemployed workers. However, the budgeting process for the Employment Security System must also be revised to promote optimum efficiency.

While the federal government stresses and emphasizes quality and professionalism in its various programs, e.g., Quality Control, Workload Validation and Quality Appraisal, similar emphasis should be placed on reform of the budgetary process. We agree with the basic premise of delivering quality service to all unemployed individuals, but we may not be able to attain this goal without adequate funding.

Many unemployment insurance programs are heavily staffed by temporary workers because of underestimation of the level of insured unemployment. These problems might be resolved by instituting a biennial budget cycle, establishing unified budget periods for the components of the system, and agreeing to a definition of base workload that is consistent with the actual level of covered unemployment. Also, the Employment Security Administration Account should be removed from the federal unified budget.

I appreciate having the opportunity to comment on the unemployment compensation system.

Sincerely,

James A. Ware
Assistant Commissioner

THOMAS F. HARTNETT
COMMISSIONER OF LABOR

STATE OF NEW YORK
DEPARTMENT OF LABOR
GOVERNOR W. AVERELL HARRIMAN
STATE OFFICE BUILDING CAMPUS
ALBANY, NEW YORK 12240

September 20, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

I am deeply interested and supportive of efforts to reform certain aspects of the Unemployment Compensation (UC) program. I regret that I was unable to attend the September 15, 1988 public hearing on UC reform held by the Subcommittee on Public Assistance and Unemployment Compensation. I am, however, attaching six (6) copies of my written statement on the issues of inclusion of UC revenues and spending in the federal unified budget and the serious underfunding of UC administration.

I sincerely hope that the public hearing and written statements will bring to the attention of Congress the problems states face in the administration of this most worthy program.

Sincerely,

Thomas F. Hartnett

Thomas F. Hartnett

Attachments

POSITION OF THE NEW YORK STATE DEPARTMENT OF LABOR ON THE UNDERFUNDING OF UNEMPLOYMENT COMPENSATION PROGRAM

Year after year, State Employment Security Agencies (SESA's) struggle with cuts in administrative funding and are forced to reduce state operations and services. These budget cuts are the product of three factors:

1) The Federal Budget Deficit - Employment and training programs have been designated "non-priority domestic programs" and have, therefore, suffered deep funding cuts in an effort to reduce Federal spending and the budget deficit.

2) Program Reductions - The U.S. Department of Labor and Congress, faced with the budget considerations described above, decide which programs will continue and what their funding level will be. Employment Security programs, particularly the Job Service, have suffered disproportionate funding cuts.

3) Reduced Workload - The initial mechanism for allocating funds for administration of the Unemployment Compensation Program was designed to relate funding to the changing level of claims for benefits. While the underlying premise of this mechanism is sound, the practical problems of reducing fixed costs such as the amount of office space leased or the number of telephones connected has not been recognized. New York's workloads have been decreasing steadily in recent years which has resulted in a reduction of the state's allocation for fixed costs. To compensate for this loss, further cuts in staff positions have been necessary.

Background

Every employer in the country contributes 0.8 percent of the first $7,000 earned by each of its employees to the IRS under the Federal Unemployment Tax Act (FUTA). Of this 0.8 percent, 0.2 percent is directed to the Federal Unemployment Account (FUA) and the Extended Unemployment Compensation Account (EUCA) to finance loans to states and extended benefits during severe economic downturns. Of the remaining 0.6 percent, 90 percent is credited to the Employment Security Administrative Account (ESAA). Funds in ESAA are available for both state and federal administration of Unemployment Compensation, Employment Service and Labor Market Information programs. Congress appropriates ESSA funds for program operations and the U.S. Department of Labor allocates these funds among states based on various formulae.

Issues

Underfunding of Administration

In its effort to reduce spending on social programs, heavy cuts in funds for the administration of Unemployment Compensation and the Employment Service have been imposed by the Congress. Consequently, the ESAA had a balance of $1.6 billion by the end of 1987. A specific amount of reserves must be maintained to carry the system though economic slumps; excesses above the amount are transferred to the FUA and EUCA. It is projected that by 1990, the excess alone will equal $2.7 billion while the delivery of employment and unemployment programs continues to deteriorate. Clearly, sufficient funds are available to provide states with the administrative funding they need to adequately deliver the services for which the employer community has paid.

What has been the impact of accumulating ever increasing reserves in ESAA? Services to the unemployed, to job seekers, and to employers are reduced. Nationally between 300 and 600 local offices have been closed. Employment services staff has been cut from 32,000 to 17,000 and unemployment compensation staff have been reduced from 54,000 to 40,000. 1/

1/ Source: Administrative Financing Reform for State Employment Security Agencies: The National Governor's Association Proposal. By Grace A. Kilborne - Ohio Bureau of Employment Services, July 11, 1988.

Revenues, expenditures, and Trust Fund reserves attributable to the Federal/State Unemployment Compensation Program are included in the computation of the Federal Unified Budget. Most Unemployment Compensation revenues, however, are raised through specific employer taxes authorized by the Federal Unemployment Tax Act and State Unemployment Compensation laws. Use of these funds is restricted to the payment of Unemployment Compensation benefits and to financing the administrative costs of the program.

Funds designated for administration of the U.I. program cannot be diverted to other uses when they are withheld from states in the name of deficit reduction. Thus, the federal fiscal impact of this deficit reduction strategy —building up the U.I. program's federal reserves— is outweighed by the toll extracted on the effectiveness of unemployment compensation programs.

Ineffective Use of the Allocation Formulas

To add to the overall problem of the Federal government hoarding administrative dollars, the formulas used to calculate state allocations, especially the Unemployment Compensation program budget, cause much concern.

As previously mentioned, the UI system is funded by a workload-driven method. This means that detailed estimates are prepared on workload items such as initial claims, continued claims, appeals. The workload estimate is then divided by the "workload per staff year" (WLPSY), which is based on prior years' experience, in order to reach the staff years needed to perform that function. The staff years are then multiplied by actual salary costs with overhead and support costs added in. This should produce the needed budget to perform the actual UI workload.

There is a critical flaw in this process, however. There is no link between these workload studies and the budget appropriated by Congress. Therefore, Congress passes an appropriation regardless of the actual needs and DOL then reduces the needed allocation to fit within Congress' appropriation. In 1988, Congress provided only 83.6 percent of the amount indicated by the allocation formulas as necessary to administer the nations Unemployment Compensation programs.

The New York State Department of Labor favors full funding of the costs of properly administering the Unemployment Compensation program. Use of an updated cost-model basis for determining administrative costs should be restored. The cost-model system, based on precise time and motion studies, together with a recognition of fixed cost requirements provides the most accurate guide for determining the cost of operating the program at various workload levels.

To continue the existing process is to continue a planned and known underfunding of UI programs. The impact on the system includes: 1) longer lines of unemployed workers than necessary; 2) inefficiencies; and 3) insufficient attention paid to claims processing which creates errors and ultimately costs much more money to the unemployment Trust Fund than what is "saved" in administrative dollars. The U. S. Department of Labor has estimated a $5 loss to the Trust Fund for every $1 reduction in administrative funds appropriated.

FORTNEY H. (PETE) STARK
9TH DISTRICT, CALIFORNIA

COMMITTEES
WAYS AND MEANS
DISTRICT OF COLUMBIA
SELECT NARCOTICS

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
WASHINGTON, D.C. 20515

Statement of Congressman Pete Stark
on Reform of the Unemployment Compensation Program
for hearing on Thursday, September 15, 1988

A Demonstration Program for Dislocated Workers

Mr. Chairman, I would like to thank you for holding this hearing. With unemployment relatively low for non-minorities at this time, it is important to focus on and rethink our policies in order to face future unemployment problems. Let's fix the roof, before it rains.

For some time, I have advocated helping dislocated workers by providing relocation assistance. This group of workers tends to be a low percentage of the unemployed. According to Bureau of Labor Statistics, they accounted for roughly less than 12% of the unemployed in January 1986. However, they seem to suffer more from long-term unemployment than other workers.

Dislocated workers usually come from regions affected by changes in particular industries and possess specific skills that have become unmarketable. Often, the industry may have eliminated a number of similar jobs, making it difficult for a large number of people possessing the same skills to find work in the area. It is in this situation that funds to relocate would be especially helpful.

One group of permanently displaced workers participating in a demonstration project conducted by the Department of Labor in New Jersey are receiving relocation assistance as well as other help. I would like to recommend that this group's progress be studied and the results made available as soon as possible.

Another type of demonstration in Washington is looking at the results of using Unemployment Compensation (UC) funds as start-up money for unemployed people to become self-employed. The people chosen as part of this demonstration are being given $5000, an amount thought to be equal to the amount of UC benefits they would have otherwise received.

This amount of money also would seem reasonable for a dislocated worker to relocate. I advocate that this Committee seriously consider additional demonstration projects offering dislocated workers money to relocate.

THIS STATIONERY PRINTED ON PAPER MADE WITH RECYCLED FIBERS

UNIVERSITY OF CALIFORNIA

BERKELEY • DAVIS • IRVINE • LOS ANGELES • RIVERSIDE • SAN DIEGO • SAN FRANCISCO

SANTA BARBARA • SANTA CRUZ

SCHOOL OF LAW (BOALT HALL)
BERKELEY, CALIFORNIA 94720-2499
FAX NO. (415) 643-6171
TELEPHONE (415) 642-0130

September 20, 1988

Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Leonard:

Regarding the public hearing held September 15 on reform of the UC system, I hereby submit for the printed record six copies of a statement whicn proposes a completely new way of approaching employee benefits and social insurance. This proposal, which I call Short Term Paid Leave, would, among other things, fully displace our current short term unemployment insurance system.

I presented this idea to the Department of Labor's Region IX Directors' Conference in August where, I felt, it was well received, albeit controversially. Naturally, I would be interested in your reaction and that of others on the staff concerned with UC reform.

Yours sincerely,

Stephen D. Sugarman
Professor of Law

SDS/cc

SHORT TERM PAID LEAVE: A NEW APPROACH TO SOCIAL INSURANCE AND EMPLOYEE BENEFITS

STEPHEN D. SUGARMAN

Reprinted from
CALIFORNIA LAW REVIEW
Volume 75, Number 1, January 1987
Copyright © 1987 by California Law Review, Inc.

Short Term Paid Leave: A New Approach to Social Insurance and Employee Benefits

Stephen D. Sugarman†

In this Article I propose an entirely new approach to income maintenance for employees who are off work for temporary periods, ranging from one day up to six months, for whatever reason, including disability (from illness or injury), leisure (vacation and public holidays) and unemployment. In lieu of the variety of existing arrangements for temporary income replacement, I advocate a new mandatory employee benefit that I call "Short Term Paid Leave."

Part I describes the Short Term Paid Leave plan and argues that it would be a substantial improvement upon existing arrangements for several reasons. Part II compares the Short Term Paid Leave plan with the present arrangements, using hypothetical employees to demonstrate why the overwhelming majority of employees would be significantly better off under my proposal.

I
Overview of Short Term Paid Leave

This Part first briefly describes the key features of the Short Term Paid Leave plan. I then present three broad objections to existing arrangements and explain how my plan would respond to them. Following that I address who would pay for Short Term Paid Leave. Finally, I discuss why it is appropriate for government to adopt programs that assure people reasonable levels of income protection during periods when they temporarily are not working.

A. The Plan

Through a simple and uniform regime, employers would be required

† Professor of Law, University of California, Berkeley. B.S. 1964, J.D. 1967, Northwestern University. This proposal was in a way inspired by an article by Swedish Professor Gosta Rehn, titled *Towards A Society of Free Choice*, which appeared in Comparing Public Policies (Wiatr & Rose eds. 1977). Rehn discussed his work with me in Berkeley some years ago after the publication of my book Education by Choice (1978) (co-authored by Professor John E. Coons). That conversation showed me that the particular mixture of liberty and equality that Professor Coons and I advocated for the education system might have a counterpart in the social insurance/employee benefit system.

90-967 - 89 - 5

by law to make certain advance arrangements for their employees' needs for income when temporarily not working. Specifically, every employee would earn one day of paid leave for every five days worked. Hence, someone who works 220 days during a year (amounting to forty-four five-day weeks), would earn forty-four days (nearly nine five-day weeks) of paid leave.[1] These paid-leave days would be accumulated in a "paid leave account" and available for employee use on a relatively unrestricted basis. A suitable present-day analogy is the typical employee's earned vacation leave, which accrues as one works and can be drawn upon largely when and as the employee wishes.

There would be one major limit on a worker's access to his or her paid-leave account. A portion of the account would be designated the "reserve." An employee would be required to put some of each year's earned leave days into the reserve until he or she had saved six months worth of leave days. This reserve, whatever its balance, would become available only after an employee had been off work for two weeks owing to disability or unemployment.

A worker drawing on his or her paid-leave account would normally remain in full-pay status since, during the course of any year, earned paid-leave days would simply accrue on an employer's books. Substantial end-of-year accrued but unused balances, however, (including additions to one's "reserve") would be fully funded through employer payments into employee-controlled accounts held at designated, participating financial institutions.[2]

Short Term Paid Leave would replace benefits such as paid public holidays, paid vacations, paid sick leave, temporary disability insurance, unemployment compensation, and workers' compensation (at least for the first six months of benefits under those programs).[3] Hence, employees would have to draw upon income from their paid-leave accounts whenever they temporarily were not working and wanted to be "paid." Existing long-term benefit plans, like social security and the permanent disability portion of worker's compensation, would continue to provide for needs lasting more than six months. Short Term Paid Leave, a radically simplified benefit that all employees nationwide could enjoy, would replace the current grab bag of schemes designed to satisfy employee's short-term income needs.

---

1. People who work part time would accumulate earned paid leave in the same way: for example, one hour for every five hours worked or one half-day for every five half-days worked.

2. It might be helpful to think of these restricted accounts as analogous to individual retirement accounts (IRA) which are held in employees' names but are set aside until retirement.

3. Workers' compensation benefits providing for other than income replacement would continue—for example, medical treatment and rehabilitation costs.

B. Three Reasons Why the Plan Is Needed

The Short Term Paid Leave plan is my solution to three different problems with the existing arrangements for temporary income replacement.

1. Absence of a Cohesive System

My first concern stems from the present absence of a cohesive income maintenance system, resulting in unevenness, uncertainty, and waste. Today's short-term benefits are the product of ad hoc decisions made over time, rather than a comprehensive approach to the temporary income replacement problem. Together, today's benefits resemble a crazy quilt that is filled with holes and jagged borders and with overlapping, and often clashing, patches. Here in brief are the main features of the current regime.

— Workers' compensation, which is largely a legislatively mandated, private insurance scheme, was adopted on a state-by-state basis early in this century in response to tort law's failure to deal adequately with the mayhem of the new industrial age. Although workers' compensation covers long-term injuries as well, my plan would only replace its provision of income—often two-thirds of prior wages up to a modest ceiling—to those suffering from job-related, temporary disabilities.

— Unemployment compensation was imposed on the states in 1935 by the federal government as a reaction to economic suffering caused by the Great Depression. Although there are government-run unemployment compensation programs in all states, as with workers' compensation, they vary significantly. In general, unemployment compensation provides up to fifty percent of prior wages, subject to a modest ceiling, for a period of up to six months, to involuntarily unemployed people who have had recent, substantial attachment to the workforce.

— Generous vacation, public holiday, and sick leave benefits, where they are found, are largely the result of post-World War II, private sector responses to employee needs and demands. These nonmandatory benefits are a critical feature of modern employment for many workers, often providing one day per month of fully paid sick leave, eight to twelve paid public holidays, and two to four weeks of paid annual vacation.

— Finally, in recent years, many large employers have developed various highly complicated personnel policies designed to wrap a network of generous, private supplementary benefits around the publicly mandated ones.[4] At the same time, many workers must make do with

4. For example, some employers provide severance pay or supplemental unemployment benefits on top of required unemployment compensation, and some employers provide more generous wage replacement benefits than are required by workers' compensation.

only the legally required programs.

One consequence of these incremental developments, as already suggested, is that benefits vary enormously depending upon where and for whom one works. Moreover, most employees probably do not well understand their eligibility for many of their benefits and cannot value the overall package of benefits that comes with any particular job they hold or might be considering. These inconsistencies and uncertainties should be dramatically reduced under the Short Term Paid Leave plan because benefits would be uniform and more easily calculated.

In order to manage the various existing programs, separate and costly bureaucracies and accounting systems, both public and private, must be maintained. Furthermore, a great deal of attention is given to eligibility determination since in many situations it is not clear which program, if any, should compensate the worker. Claimants with dubious eligibility now exert unwelcome pressure to qualify when the alternative is lesser benefits or none at all. Disparate public and private management of today's programs also results in inconsistent enforcement and policing of eligibility restrictions. Seemingly equivalent violations of eligibility requirements do not carry the same meaning or risk of discovery. By comparison, under the Short Term Paid Leave plan many bureaucracies would be eliminated, most of the currently difficult program eligibility decisions would no longer have to be made, and employers would virtually never need to police employees.

While each of the current benefits seems to be aimed at a separate employee need, if one steps back it becomes clear that at a broader level all of these benefits deal with a single problem—how to maintain an employee's income during short-term periods when he or she is not working (including transitional periods during which an employee is moving out of the work force for a longer time or altogether). Short Term Paid Leave offers a simple and comprehensive approach to this broader problem, thereby promising increased coherence, uniformity, clarity, and administrative savings.

2. Inadequacy

My second objection to existing arrangements concerns their inadequacy. As noted above, although many employees are, in one way or another, now reasonably well protected against income loss when they are temporarily not working, many others are not. For example, a significant proportion of workers who become disabled have neither paid sick leave (for the occasional few days of illness) nor paid temporary disability leave (for an illness or off-the-job injury lasting for a few weeks to a

few months).[5] Holiday and vacation pay is also often provided on miserly terms, and some workers must do entirely without it.[6] Certainly as compared both with their better-off counterparts (including most public employees) and with employees throughout Western Europe, those many American workers who must depend for temporary income replacement largely upon the required social insurance benefits (unemployment and worker's compensation plans) are very poorly served indeed.[7] Inadequacy, thus, is a very substantial weakness of the existing regime. A key objective of mine, therefore, has been to develop a plan that would assure that nearly all employees have what are considered good benefits.

Similarly disadvantaged under the present arrangement are those many workers who, when they change employment, forfeit built-up rights at their old job (typically sick leave and longer annual holidays). Therefore, I have also sought to assure the "portability" of benefits in my plan.

On the other side of the adequacy coin, some employees exploit (albeit legally) existing program designs. For example, certain construction workers and other reasonably well-paid and regularly seasonally employed people routinely receive unemployment compensation that many consider inappropriate.[8] The Short Term Paid Leave plan would also curb these sorts of excesses.

---

5. *Social Security Programs in the United States*, 49 SOC. SECURITY BULL., Jan. 1986, at 5, 37-41; Price, *Cash Benefits for Short-Term Sickness: Thirty-five Years of Data, 1948-83*, 49 SOC. SECURITY BULL., May 1986, at 5.

6. Full-time jobs without any paid vacation or paid holidays are now apparently largely restricted to the retail trade, personal services, and small employers. For example, a M & M Community Personnel Practices Survey dated 1984 (on file with author) identified 7.4% of employees in "retail and services to individuals" as having no paid holidays. Of the medium and large firms regularly surveyed by the Bureau of Labor Statistics, virtually all provide some paid holidays and paid vacation. *See* BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, EMPLOYEE BENEFITS IN MEDIUM AND LARGE FIRMS, 1985 (1986). About a quarter of all employees, however, enjoyed only eight days or less of paid holidays in 1985 as contrasted with the 40% who enjoyed more than 10 paid holidays. *Id.* at Table 6. Perhaps even more striking, this survey found that at one year of service, 30% of employees were entitled to only one week of paid vacation. Even at five years of service, 45% of employees were entitled to only two weeks of paid vacation. *Id.* at Table 8. On the history of paid vacations, see generally D. ALLEN, FRINGE BENEFITS: *Wages or Social Obligation?* (1964).

7. For a description of the good benefits provided to its nonfaculty employees by the University of California, see *infra* text accompanying note 21. From personal experience and informal conversations with colleagues in Western Europe, it has become clear to me that in many countries at least four weeks of annual paid vacation is guaranteed to employees by law. For an international overview of social insurance benefits, see INTERNATIONAL LABOUR OFFICE, INTRODUCTION TO SOCIAL SECURITY (1984).

8. For further discussion of this problem, see *infra* text accompanying note 45. It is worth noting here that Congress has singled out professional athletes and school employees as seasonal workers who are undeserving of unemployment compensation benefits in their off season. For a discussion and criticism of these special provisions, see NATIONAL COMM'N ON UNEMPLOYMENT COMPENSATION, UNEMPLOYMENT COMPENSATION: FINAL REPORT 28-34 (1980).

In sum, my plan would ensure more adequate benefits than are provided by the current schemes. Steady workers would have a benefit package that is comparable to or better than that which jobs with good benefits now provide; and erratic workers would have decent and apt protection.

3. *Lack of a Satisfactory Underlying Conception*

Third, and perhaps most importantly, my plan adopts an entirely different underlying conception of how to deal with short-term income replacement needs. Short Term Paid Leave substitutes the forced-savings principle (through individual employee "paid leave accounts") for the existing categorical basis of eligibility for benefits. In other words, unlike some of the existing arrangements which depend upon purported or real insurance, my plan relies upon compelled self-insurance.

Employees face various contingencies which temporarily prevent them from working, such as illness, injury and economic recession and instability. Traditional thinking considers these different contingencies as risks to continued wages and salaries which should be protected by separate insurance-like means. By contrast, like the typical approach to vacation pay today, under my plan paid time off is earned and accumulated as one works. The savings or self-insurance idea (together with a borrowing feature I will later discuss)[9] is not only appropriately applicable to and sufficient to deal with all of the short-term income protection problems that workers face, but it also avoids several undesirable features of the current arrangements.

To be eligible for benefits under the existing categorical approach it is insufficient that the employee is merely not working. The worker must satisfy one of the socially-approved, or employer-approved, categories. This approach inevitably requires the programs to make controversial decisions about who is deserving—that is, what risks are covered. For example, should an employee who leaves employment to move with his or her spouse to the spouse's new place of work receive unemployment compensation? Should one be eligible for paid leave when home sick but not when home caring for a sick child? Under the Short Term Paid Leave plan it would now be up to the employee to decide when to use the funds put aside for his or her use, thereby substantially decreasing the feelings of unfairness that today's linedrawing creates.

Today's category-based programs also work both to restrict worker liberty and to invade worker privacy. For example, where sick-leave rules are enforced, workers must demonstrate that they are entitled to a paid sick day based on their employer's definition of the conditions that

9. *See infra* text accompanying note 48.

justify an absence. As a consequence, employees who do not feel up to work because of some physical or emotional distress that does not fall into their employer's definition of sickness, feel strongly pressured to work anyway. Similarly, under current law workers who quit their jobs often cannot get unemployment benefits even if they leave work for what to them are quite valid reasons.[10] In order to qualify for benefits, they must justify being out of work by external standards that may not include their personal justifications. As a result, many employees are strongly pressured to remain in jobs that they would rather leave. Moreover, even when the employee clearly qualifies for sick leave or unemployment compensation, having to explain and defend his or her "excuse" to a third party often imposes upon the worker's dignity.

By contrast, under the Short Term Paid Leave plan, an employee's short-term income replacement benefit would be a single pool of credits that he or she has earned. Therefore, an employee would decide individually whether to draw on the fund when temporarily off work.

Since the current arrangements conceive of unemployment compensation as insurance that is paid for by employers, in order to prevent undeserved entitlements benefits are restricted to those people who are unemployed for reasons that do not reflect employee fault. After all, it would be an example of the classic moral hazard about which insurers worry if workers were allowed freely to trigger the unemployment compensation benefit by their own deliberate (and possibly pleasurable) choices. Under the Short Term Paid Leave plan, by contrast, employees would, in effect, save up for their own possible unemployment. Consequently, workers could collect benefits without needing to justify their departure from work in terms of categories established by others. Moreover, there would no longer be grounds for imposing coerced work searches on the unemployed (although job-finding services would still be available to those who found them useful). Thus, Short Term Paid Leave would free workers from unwanted regulation of their lives.

Yet another important cost of today's categorical approach is the abuse that it generates. For example, some employees secretly work for cash while drawing unemployment compensation.[11] Some claim to be home ill when they are not (especially on Monday or Friday) in order to have a paid day off without using up a vacation day.[12] Some malinger

10. This is apart from those who quit for "good" reasons, the legal definition of which is destined to be continually in dispute.

11. For some studies of this problem, see Black & Carr, *An Analysis of Income Misreporting*, and Porterfield, St. Louis, Burgess & Kingston, *Selecting Claimants for Audits of Unreported Earnings*, in 2 NATIONAL COMM'N ON UNEMPLOYMENT COMPENSATION, UNEMPLOYMENT COMPENSATION: STUDIES AND RESEARCH 543, 561 (1980).

12. Although occurrence of this sort of abuse can be confirmed through conversation with any experienced benefits manager, I have found no empirical studies directed specifically at the abuse

after an injury or illness, thereby continuing to draw benefits, when they could easily return to work.[13] Some calculatingly change their conduct in order to qualify for benefits (for example, instead of quitting, they cause themselves to be fired so as to come within an approved category for unemployment compensation).[14] These abuses not only anger supervisors and colleagues as well as the government and taxpayers, but they also demean the cheating employees themselves. The Short Term Paid Leave plan would largely do away with these abuses, since the incentives to cheat are radically diminished when employees are claiming their own earned paid leave.

In sum, Short Term Paid Leave responds to all three of the objections I have raised to the current arrangements. Employees generally would gain freedom, privacy, benefit portability, and a clearer understanding of what their benefits are. Many workers would have substantially improved benefits, and employers and government would benefit from reductions in both administrative costs and abuses. To be sure, some employees would be worse off under my proposals than at present. This would be a positive improvement in regards to abusers of the present programs and undeserving recipients. Other losers under my plan, such as workers who negligently allow themselves to become ill, injured, or unemployed on a recurrent basis, are also unlikely to win much sympathy.

Nevertheless, I admit that a small proportion of clearly deserving workers, those employees who now have good benefits and who are recurrently ill, injured, or unemployed for reasons outside their control, would be worse off under my plan. For them, the shift from the insurance concept to the forced savings principle would take with it the social advantages of insurance from which they now benefit. But even these workers would not generally suffer income losses under my plan. Rather, they would, in effect, be treated as being on vacation during these periods of inactivity and would use up the paid vacation time that they had saved. I find this burden on a small class of workers a small price to pay for the very large gains promised by the Short Term Leave Plan.

In sum, I happily concede that the insurance principle is needed to care for workers with long-term needs like permanent disabilities; these are rather rare and can be financially devastating. But, on the other

---

problem. For one interesting study of sick leave, see Winkler, *The Effects of Sick Leave Policy on Teacher Absenteeism*, 33 INDUS. & LAB. REL. REV. 232 (1980).

13. For a discussion of the impact of benefits levels on malingering under current plans from the perspective of benefit managers, see Doudna, *An Overview of Group Disability Income Insurance*, in THE HANDBOOK OF EMPLOYEE BENEFITS 216-17 (J. Rosenbloom ed. 1984).

14. For a discussion of this problem and the "provoked discharge" doctrine that sometimes serves to block the employee's access to benefits, see *Voluntary Leaving*, 1B Unempl. Ins. Rep. (CCH) ¶¶ 1975, 1975.14 (Jan. 6, 1986).

hand, just about everyone who has a substantial attachment to the work force can reasonably take care of his or her own short-term income needs through a forced savings arrangement instead.

C. *Who Pays*

By this glowing description of its many benefits and limited shortcomings, I do not mean to suggest that the Short Term Paid Leave plan could be implemented without additional costs to anyone.

Nonetheless, for those employees who now have good benefits, the Short Term Paid Leave plan would not cost substantially more, if at all, than the benefits it would replace, especially when the reduction in abuse and costs of administration are taken into account. Consequently, most employees with good benefits today would be even better off at essentially the same cost to their employer. It is very difficult to say whether the value of those increased benefits would ultimately accrue to workers, or would go to employers (because wages or other employee benefits would then go up more slowly than otherwise), or would be shared between them. For now it is enough to make the point that there is room in this reform for gains for both employees and employers.

It is more difficult to determine who would pay for the increased benefits that workers with poor benefits today would receive under the Short Term Paid Leave plan. One view is that under the plan these employees would gain a great deal for which their employers would pay. This model imagines that wages and benefits are separately determined and that newly required benefits would mean lower profits for enterprises. This view is often endorsed by employer groups and politicians who focus primarily on the formal assignment of costs. Such people often carefully distinguish between employer and employee contributions to health insurance plans, social security, and the like.

A different and probably more realistic view, however, is that employees would pay for their own improved benefits through lower wages in the long run. This model, usually favored by economists, argues that employees are able to command a total price for their services, which includes both cash and noncash labor costs. Other things being equal, therefore, whatever employees get in benefits they do not get in wages. I would argue that if workers under my plan would gain benefits at the expense of current cash, on the whole they would favor this sort of trade. Moreover, if this creates serious concerns about employee needs for cash flow, my plan would permit workers in some circumstances to convert their Short Term Paid Leave credits back into current cash.[15]

15. For workers earning the minimum wage, who cannot trade lower wages for better benefits,

It is exceedingly difficult, if not impossible, to determine the extent to which each of these two perspectives on "who pays" best describes the current situation or to predict which would prevail under my plan. In response to this ambiguity, at least to the extent practical, I have tailored my proposal so as to maintain the current balance of fiscal responsibility between employees and employers. Thus, to avoid importantly altering the burden on whomever it is that pays at present, as a formal matter, employers would fund Short Term Paid Leave benefits out of current enterprise revenues. Since the employers who would formally have to pay more under my plan are those who currently underprovide decent benefits, many people would find this a just result whatever the ultimate incidence of such costs.

D. Why Require Any Benefits

At stake here is the need for income maintenance during those days, weeks, and months when people, once having gone into the labor market, temporarily do not work.[16] Expenditures continue during these periods, and, unless a sharp decline in living standards is to be experienced, some provision must be made for continued income.[17] It is imaginable, of course, that many, or even most, workers could personally provide for those periods through rational planning—voluntary savings combined with private borrowing, deferral of consumption, or private insurance. Moreover, households in need because they have no member currently at work and inadequate savings have traditionally been assisted by voluntary, private income transfers that arise out of bonds of affection, felt social obligations, and altruism generally. Furthermore, there is a collectively funded safety net of "public assistance" that has emerged over the course of this century to assume a critical backup role in assuring subsistence income to those who have immediate needs for cash because of the unavailability of other sources.

While self-sufficiency, charity, and welfare might in principle take care of the problem, in practice they would not. The major fly in the ointment is that, if left entirely to their own devices, too many people find themselves in need because they do not manage their money wisely.

---

my plan may be equivalent to an increase in the minimum wage. I leave the consideration of the desirability of this impact to a future, more specific discussion of the implementation of my plan.

16. I exclude from consideration here income maintenance for those young persons who have yet to become regularly attached to the labor force. Hence, I will not discuss parental support rules and other existing mechanisms for funding living costs during periods of education and training of young people.

17. Many couples depend on the income of only one spouse. In such cases it is only when the breadwinner is not working, assuming the other spouse does not take over that role, that the family's need for regular income provision arises. In two-earner families, although a period of nonwork by one spouse is less likely to plunge the household into poverty, it still threatens to lower dramatically that household's ordinary standard of living.

Although they might be poor enough to obtain welfare or charity in terms of need, these people are not really the targets of this aid because they could be self-sufficient, if they only planned properly. Short Term Paid Leave, thus, is perhaps best seen as a mechanism for helping people to plan by automatically and conveniently setting aside earnings that a great consensus of workers, if properly informed, would favor.

This general point can be seen if one considers, for example, annual paid vacations under today's regime. Imagine an alternative system by which people would get higher weekly pay packets, but then would have to finance on their own a two- or three-week unpaid vacation to which they were entitled each year. Most people would probably prefer the current arrangements under which they are, in effect, helped (or forced) to save up for those vacations. Otherwise, many people, filled with self-regret, would find that they had spent the extra pay and could not afford to take a vacation. Even those who would take the trouble of carefully planning for a holiday period without pay probably prefer, at least in most cases, not having to make the special effort to do so. Indeed, this notion of employee preference—self-paternalism, it might be called—helps to explain why we have paid vacations.[18]

Short Term Paid Leave simply expands upon the amount saved—substantially beyond that needed for ordinary vacations and public holidays. At the same time it restricts the use of some of these savings, through the device of the "reserve," to periods of more serious need (more than two weeks of disability or unemployment). That, too, is the sort of self-paternalism that most employees, if well informed, would probably favor.

More broadly, I wish to make clear that I do not simply advocate overturning existing employee benefit and social insurance arrangements aimed at workers' short-term needs for income. These collective and mutual arrangements (both public and private) play a key role in keeping people from hardship, charity, and welfare. They represent, in my view, one of the major triumphs of the modern welfare state. In short, I do not object to either government intervention or employment-based, noncash benefit arrangements, but rather to their current form.

Since I am claiming that employees generally would prefer their benefits in the form that I am proposing, it may be fairly asked why the market has not generated the scheme that I advocate. One reason is that the legal requirements of unemployment compensation and workers' compensation do not currently permit it. More broadly, the category-

18. There are other explanations for paid vacations as well; for example, employers want people to take time off in enjoyable circumstances or unions want to show workers they have obtained something besides higher wages.

based way of thinking that lies behind those two plans has made it difficult for benefit planners even to imagine it.

Recently, however, this has begun to change a bit. Where employers and employees have room to maneuver, some employee benefit plans, such as at high technology companies like Hewlett-Packard and Bechtel, are combining sick leave and vacation pay into a single, earned paid time-off benefit—a kind of mini-precursor to my Short Term Paid Leave proposal.[19] Indeed, Stanford University Hospital in California has had several years of successful experience with an earned time off plan that combines the former benefits of vacations, sick leave, and public holidays.[20] Legal restrictions and lack of imagination stand in the way of further experimentation. Although I cannot do anything directly about the legal constraints, the hope of this Article is to stimulate a new way of thinking about short-term income replacement so as to make possible in the near future at least substantial experimentation with Short Term Paid Leave.

II
COMPARING SHORT TERM PAID LEAVE WITH EXISTING ARRANGEMENTS

For purposes of this Article, I have chosen to provide neither a systematic evaluation of the existing employee benefit arrangements nor a highly detailed description of my plan. Rather, I have elected to make some informal comparisons in hopes of generating broad interest in the proposal.

This Part first describes a package of short-term income replacement benefits of the sort that employees with what I call "good benefits" have today. I then compare that package with what Short Term Paid Leave would provide to hypothetical employees under varying circumstances. That comparison allows me both to flesh out additional important details of my proposal in their appropriate contexts and to demonstrate why even employees with good benefits today would, by and large, be better off under my plan. At the same time, this analysis demonstrates the advantages of my plan to those who do not have good benefits now.

A. Good Benefits Today

Employees with good benefits generally find that their income (or at

19. *See* INTRODUCING FLEXIBLE TIME OFF AT HEWLETT-PACKARD (on file with author). Information about Bechtel's plan was kindly provided in a telephone interview by Susan Grisso, Manager of Corporate Policy.

20. Information about Stanford University Hospital's plan was kindly provided by Carol Ann Bergman, Manager of Human Resources (on file with author).

least a reasonably large share of it) continues during most short-term periods when they are not at their jobs. For these employees the combination of governmentally mandated and employer provided protection fairly well sees them through the whole range of circumstances that keep them temporarily away from work—such as periods of unemployment and disability (including pregnancy), absences on account of personal and public duties (for example, family illness, funerals, and jury service), and time off intended for leisure (public holidays and vacations).

I will now describe in some detail typical good benefits, using as an example the benefit package enjoyed by staff—that is, nonfaculty—employees of the University of California.[21] New full-time University of California staff employees typically earn ten hours per month or 120 hours (three weeks) per year of paid annual leave, commonly thought of as paid vacation. After ten, fifteen, and twenty years of service, respectively, paid vacation leave is increased in steps from this initial three weeks to a maximum of four weeks and four days (twenty-four days) per year. There are twelve paid holidays per year at the University of California. Employees are also eligible for paid leave, as needed, for a few other unusual and specially identified circumstances such as jury duty.

Paid sick leave is earned at the rate of one day per month or twelve days per year. Unused sick leave accumulates and can be used in subsequent years, but is forfeited if one leaves University employment.[22] Unused vacation leave is paid out like a severance bonus when one quits or is laid off. Employees injured at work are eligible for workers' compensation benefits, which are integrated with sick leave so that, in the typical case, an injured worker uses up sick leave first, thereby initially remaining in full-pay status. After that, he or she goes over to the workers' compensation plan, which at the University of California is a combination of the state's normally required workers' compensation minimum plus a University supplement. Together they replace 80% of an employee's wages for up to six months.

Those who become disabled off the job and who use up their sick leave go onto the University's equivalent of California's mandated nonoccupational disability plan for the private sector; this plan provides up to six months of only moderate wage replacement (55% of past wages up to a modest monthly ceiling).[23] University employees may, however,

---

21. This information was kindly provided in a telephone interview by Betty-Lou Harmon, Manager, Compensation and Policy on the Berkeley Campus. *See generally* SUMMARY OF YOUR BENEFITS AT THE UNIVERSITY OF CALIFORNIA (1985) (on file with author).

22. If an employee retires from the University with unused sick leave, this adds to the employee's service credit for purposes of calculating his or her retirement pension.

23. The University's traditional 26-week maximum duration for benefits is less generous than the current maximum of the state plan which is 52 weeks. *Compare* CAL. UNEMP. INS. CODE §§ 2653, 2655 (West 1986) *with* Your Prudential Disability Insurance Program, University of

purchase additional nonoccupational, temporary disability insurance that permits them to have coverage for a higher proportion of their wages—the maximum being 70% of wages, subject to a ceiling that is rarely reached given staff salaries. Childbearing leave, typically lasting about eight weeks, is covered by these plans.

Employees who are dismissed are entitled to unemployment compensation only to the extent provided by law. For those with a reasonably substantial attachment to the work force in the year prior to losing their jobs, California's unemployment compensation scheme provides up to six months of benefits equal to 50% or less of past wages, and only up to a modest ceiling.[24] Like other employees in California, those who quit their jobs at the University are generally ineligible for unemployment compensation, and there is no University supplement. However, as noted above,[25] departing workers are paid for any unused vacation days, and some departing employees elect to withdraw their vested funds from the University's retirement program, thereby sacrificing their pension rights, but giving themselves a financial cushion that can be used to tide them over for a while.

So long as one remains in employment at the University, the short-term income replacement benefits are quite good by American standards. On the other hand, before one leaves employment at the University, it is wise to have another means of support already lined up, because the income-support benefits that are available after quitting are considerably poorer.

Based upon data released by the University, I estimate that the direct cost of the various benefits just described is approximately 15.85% of payroll as shown in Table I.[26]

California 1986 at 3-17 (on file with author) (describing the University's nonindustrial disability insurance program).

24. *See* CAL. UNEMP. INS. CODE §§ 1280-1281 (West 1986). The maximum weekly benefit is currently $166 per week for earnings of $5533 or more in the highest quarter of the claimant's base year (which is about $425 per week).

25. *See supra* text accompanying note 22.

26. I am confident that all the administrative costs associated with the University's short-term employee benefit system are not included in this figure.

TABLE I
COST OF SELECTED STAFF BENEFITS AT THE UNIVERSITY OF CALIFORNIA[27]

	Percentage of Payroll
Annual (vacation) leave	6.27
Paid holidays	4.60
Sick leave	3.49
Workers' compensation (1)	.34
Nonoccupational disability insurance (2)	.76
Unemployment compensation	.19
Other	.20
Total	15.85

(1) Temporary income replacement portion only
(2) Assuming University were to provide maximum supplement now paid for by employees

Given the nature of the higher education industry, the pattern of employee benefit costs is somewhat different at the University than in other industries. For example, many other industries will have relatively higher costs for unemployment and/or workers' compensation, but will spend less on sick leave and/or paid holidays. Overall, I have concluded that the aggregate costs of short-term income replacement benefits at the University are roughly comparable to those incurred by other "progressive employers" with good benefits.[28]

B. Comparing Short Term Paid Leave

It should facilitate both the making of comparisons and the selling of my proposal if it can be demonstrated that for enterprises which presently provide good benefits costs would be approximately equal under current arrangements and my plan. With respect to the University's program at least, that goal seems to have been satisfied. Since the rule of one day of earned leave for every five days worked means that one of every six days is a paid leave day, this would amount to a payroll cost of 16.7% of wages. Taking into account the reduced administrative burden that the University would face under my plan, its immediate financial costs would be more or less the same as current arrangements.[29] These calcu-

27. This table is based upon information kindly provided by Robert S. Kraus from the University of California, who provided his COST OF STAFF FRINGE BENEFITS (Effective August 1, 1985) (updated) (on file with author). Where readily available University data is insufficiently detailed for my needs, I have made my own estimates. As these figures are mainly illustrative, I am confident that they are sufficient for my purposes here.

28. *See generally* CHAMBER OF COMMERCE OF THE U.S., EMPLOYEE BENEFITS: 1983 (1984); BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, *supra* note 6.

29. Because of the uncertainty of the actual amount of administrative costs that would be saved, it is pointless now to make more finely tuned comparisons, including, for example, adjusting

lations, moreover, say nothing about the intangible gains that the University would achieve or the advantages most University employees would attain through Short Term Paid Leave, to which I now turn.

In making the comparisons, I consider the situations of various hypothetical employees, starting with a reasonably simple employment situation, then introducing various complications. Along the way, as appropriate, I explain additional details of my proposal as well.[30]

I. The Simple Case

I will first discuss a new employee of the University of California who, during his or her first year of employment, takes under the Short Term Paid Leave Plan the same twelve paid holidays as he or she now gets, the same three weeks of vacation now available, and a total of four further days of paid leave when the employee is not feeling well enough to come to work or for whatever other reason. Although there would no longer be separate categories of paid leave under my plan, for comparison purposes I nonetheless identify reasons for the employee's days off. I have used four sick days so far in my illustration because evidence suggests that the great majority of workers take four or fewer sickness days per year.[31] In this example, then, our hypothetical worker would have taken thirty-one paid days off and, in turn, would have worked 229-230 days during the year. Under my proposal, the one-for-five rule means that those 230 days worked would earn this employee forty-six paid-leave

---

for the fact that some of the 15.85% shown as University benefit costs today are "inside" payroll costs and others are "outside" or on top of payroll costs. Moreover, cost-lowering adjustments to my proposal could always be made by providing, say, one earned paid-leave day for every five and one-half days, or even six days, worked—although all of my analysis here uses the one-for-five basis.

30. One detail that I will not discuss here is the extent to which certain types of employees should be exempted from the plan on the ground that one can count on the market, as revealed by existing practices, to provide them with suitable short-term paid-leave arrangements. Indeed, given the special nature of their teaching duties as well as their peculiar nine-month schedule, faculty at the University of California, for example, probably should be fully outside the Short Term Paid Leave plan.

31. Unfortunately, the University of California does not have good data readily available from which a frequency distribution of sick leave taking can be constructed. Nonetheless, a California State Personnel Board's 1982-83 report, cited in Kraus, *supra* note 27, suggests that state employees take an annual mean of about nine sick days, and that figure was assumed for University employees in constructing the table at note 27, *supra*. This estimate may well be high. In 1986, for example, the Social Security Administration estimated that state and local government employees lost an average of only seven days per year because of nonoccupational illness and accidents. *See* Price, *supra* note 5, at 6.

According to Kraus in a telephone interview with the author, there is a traditional rule of thumb in this field that 20% of the employees take 80% of the sick leave. Applying this rule of thumb to the higher figure of an average of nine days of sick leave, it would appear that 80% of the workers would average only 2.25 sick leave days per year. That in turn suggests that nearly 80% of the employees probably take four or fewer sick leave days in any one year. A report from Hewlett-Packard presents a broadly similar finding. *See* INTRODUCING FLEXIBLE TIME OFF AT HEWLETT-PACKARD, *supra* note 19.

days; thirty-one of those, as noted already, would have been used up, leaving fifteen unused.

I now consider the "reserve" feature of the Short Term Paid Leave plan. This restricted savings feature of my proposal is designed to create a pool of funds for workers to draw against for either of two types of longer, but still temporary, needs for paid time off—that is, more than two weeks off because of either unemployment or disability (including pregnancy).[32] A full reserve contains six months, more precisely twenty-four weeks (120 days), of paid leave. Someone with a full reserve would be able to cover six months out of work at full pay, subject to the two-week waiting period.

Since the proposal must balance the twin goals of providing substantial unrestricted leave and generating a substantial reserve, something also must be said about the rate at which employees would be required to build up their reserve. Assume, therefore, the following rule: Fifteen days per year would have to be added when one's account has fewer than sixty days in it, ten days per year when one's account has fewer than 100 days in it, and five days per year after that and until it is complete. This rule has two important implications. First, it would take twelve years of regular work to have a full reserve, assuming that the employee does not draw against it in the meantime.[33] Second, given the build-up rate, regular workers would obtain an extra week of unrestricted earned leave after the fourth, eighth, and twelfth years of work, respectively.

In this example, therefore, the new University employee (assuming he or she came into this employment with an empty reserve) would have to put fifteen days into his or her reserve account during the first year—which equals the amount of the employee's unused earned days in this hypothetical. At the end of the year, therefore, the University would pay over to a qualifying financial institution designated by the employee a sum equal to fifteen days of pay, which would go into the employee's "reserve" portion of his or her paid-leave account.[34]

---

32. These conditions on access to the reserve admittedly reintroduce categorical features to my plan. But these conditions are far less intrusive into the employee's privacy than are existing conditions on benefit eligibility. The two-week unemployment condition requires only that the worker has severed an employment relationship and is indifferent to the reason why the worker became unemployed. As for the disability requirement, presumably virtually everyone off work for at least two weeks owing to illness or injury will have seen a doctor whose certification will provide the worker access to his or her reserve funds under my plan. The point of these conditions is to make clear that access to the reserve is not to occur simply because the worker has been on holiday for two weeks.

33. Numerically this means 60 days would be built up after four years at 15 days per year. At 10 days per year for the next four years, 100 days would be built up after the eighth year. And, at five days per year for the next four years, 120 days would be built up after the 12th year.

34. When the employee draws from his or her paid-leave account (either from the reserve or from any unrestricted portion he or she has built up), he or she could do so at a rate up to the amount of his or her then current daily wage. Although the employer would pay into this account at

The reason for requiring the payment of funds over to a financial institution is to minimize the risk that employees would lose their benefits owing to the possible insolvency of their employer. On the other hand, for the administrative convenience of both employer and employee, my plan provides that at year's end employees would keep up to two weeks of unused, unrestricted earned paid leave as a credit on their employer's books.[35]

The hypothetical employee so far is largely in the same position under my plan as under the existing University arrangements—at least in the sense that in both cases he or she will have taken the same number of paid days off during the first year of employment. Under the existing rules the employee would have accrued eight days of unused sick leave as well as his or her contingent rights to the various other benefits. By contrast, under my plan the employee would now have fifteen paid days in his or her reserve. Moreover, the employee would not have to give any official reason for taking those four days off that I have, for comparison purposes, termed "sick" days. And whereas the employee today may be quite uncertain where he or she stands in terms of accrued benefits, it ought to be an easy matter for an employee to receive regular notice, perhaps even with each pay stub and with each quarterly statement from his or her financial institution, of the current status of the various elements of his or her paid-leave account.[36]

---

the employee's wage rate at the end of the year when the day was earned, the fund would be earning interest. In this way the employee ought ordinarily to be able to fund an increase he or she has won in wages between the time of earning and use of the funds.

Mentioning yet one further detail, my plan would provide, like the treatment of vacation days today, that employees would recognize taxable income only when they actually receive the cash on a paid day off and not when they first become eligible for the funds.

35. This is only a rather small sum to have at risk in case of an employer's insolvency—like lost accrued vacation pay in similar situations today. This risk is outweighed by the convenience created by the two-week accrual which allows employees to remain in full-pay status at the beginning of any calendar year when they wish to use up some unrestricted earned paid leave days from the prior year. The two-week accrual rule also helps more closely match employers' cash flow obligations under my plan with current arrangements.

Moreover, the two-week accrual rule would not give either employer or employee a financial advantage. When an employee takes a day off with pay from his or her account on the employer's books, he or she would be paid, as today, at his or her wage rate at the time he or she is off work, and not at the wage when he or she earned the day off. That is, he or she simply remains in full-pay status. An employer's current use of this money while it remains a credit on the employer's books would offset any usual increment that might occur between the time of earning and the use of the paid day off.

36. If the hypothetical employee continues this same pattern for three more years, he or she would have 60 days in his or her reserve under my plan. By contrast, under the existing University plan this worker would, after four years, have 32 days of unused sick leave built up, as well as his or her continuing contingent rights under the other benefit programs.

2. Vacation Leave

Under my plan, vacation benefits for the long-term steady worker would surpass those available under the current University arrangements starting in the fifth year of employment. In the fifth year, only ten days would have to go into the employee's reserve. As a result, the hypothetical employee could work 225 days, thereby earning forty-five days of leave, and take thirty-five paid days off—twelve as holidays, four as "sick" days, and nineteen as vacation. This compares with fifteen days of vacation under existing policy.

The advantage of the Short Term Paid Leave plan would continue to grow in subsequent years, since additional increments of paid vacation would become available after the eighth and twelfth years of employment. By contrast, the employee under the existing arrangements must wait for his or her tenth, fifteenth, and twentieth completed years before vacation benefits are enhanced. After twelve years under my plan the hypothetical steady employee would have a full reserve of 120 paid-leave days (twenty-four weeks), and could thereafter settle into a work pattern of 216.5 work days and 43.5 paid time-off days per year—twelve public holidays, four "sick" days, and 27.5 vacation days. This contrasts with eighteen vacation days at that point under the current rules, with the promise of twenty-one and twenty-four days to come in the future.[37]

If this hypothetical employee were to remain in University employment until retirement age, never drawing on his or her reserve, then he or she could elect either to take off the last six months prior to retirement at full pay (and use up the paid-leave account), or to receive his or her paid-leave account as a cash payment to be used as he or she wished during retirement years. By contrast, under the existing arrangements, an employee who retires healthy loses those accumulated sick leave days—although the University now provides that they are counted as additional service credit in determining the employee's retirement pension. On balance, therefore, because of the extra vacation benefits, the long-term steady worker with an average amount of "sick" days is decidedly better off under my plan than under the existing arrangements.

The hypothetical employee may not wish to use all of his or her vacation time as it becomes available but rather may want to save it up for a long break sometime in the future. Although some employers cur-

37. At the beginning of the 13th year, the hypothetical employee would have put aside 120 days of earned paid leave under my plan. Under existing arrangements, by contrast, he or she has 96 accumulated and unused sick days plus other contingent benefits (with even more sick days to accumulate in the future at the rate of eight per year under my assumptions so far).

As for the actual frequency distribution of vacation benefit entitlements among University of California staff, Kraus, *supra* note 27, reports that as of August 1, 1985, 34,245 University staff employees had under 10 years of service, 3978 had 10-15 years of service, 4176 had 15-20 years of service, and 2373 had over 20 years of service.

rently allow this, many do not. Even the University, with its tradition of faculty sabbaticals, allows staff employees to accumulate only as much vacation as they earn in two years; after that no further annual leave is accrued, thus serving as a strong incentive for the worker to take accumulated time off.

Longer accumulations would be permitted to everyone under the Short Term Paid Leave plan. All workers who save up a large block of days could, with reasonable notice, take lengthy breaks from work while maintaining the right to return to their jobs.[38] Functionally, an employee would simply take less than all of his or her available earned paid-leave days each year. The money for those unused earned days off would, beyond the ten days' worth held by the employer for convenience reasons, be paid over to the employee's financial institution and put in his or her paid-leave account on an unrestricted basis. Note, too, that for every two weeks that an employee works rather than taking available paid leave, he or she accumulates not only the ten days of unused leave but also two additional days of leave that are earned by working those two extra weeks. This feature provides a faster accumulation of unused time off than occurs under existing arrangements.

3. Employment Changes

Since many workers do not have career patterns like that of the hypothetical employee I have been discussing, I next consider a number of variations on this situation. One possibility is that the worker would leave employment at the University of California, immediately take up work with an employer who today offers equivalent benefits, and then possibly change to yet a third and similar employer. Today the employee would lose seniority-based paid vacation rights and sick leave status at

---

38. On the other hand, my plan would permit employers to require that their workers actually take at least some, although not all, of their available "vacation" each year. That is, on the ground that the enterprise benefits if its employees have some breaks in the work routine, an employer would be able to require its employees annually to take off a certain number of weeks of their earned paid leave. Moreover, as today, employers could, of course, close for public holidays and have annual shut-downs of all or parts of their operations—such as two weeks in the summer for production changes or a number of days during the Christmas to New Year period in order to save heating expenses. Employees wanting to remain in full-pay status during those periods would have to use up available earned paid leave.

Although employees would have substantial discretion as to when they use their earned paid leave, they would nonetheless have an obligation to take their employer's interests into account by giving notice when feasible, reasonably coordinating time off with the plans of fellow workers, and accommodating special employer needs at particular times of year. I do not envision an intrusive policing system to enforce this obligation. However, just as employees today are not normally thought to have complete freedom as to when to take their annual vacation, so too in the extreme cases, under my plan, employers would be free to discharge employees who abuse their paid-leave rights. Disputes over these matters would, presumably, be resolved by existing procedures set by standing company practice or provisions of union contracts.

each job change. Accumulated, unused sick leave with the University would disappear, as is the common practice with employers today. By contrast, under my plan the worker's paid-leave benefits would be fully portable.[39]

As a result, this employee's vacation pay and reserve days for sickness or unemployment would increase throughout his or her career, unaffected by job changes. This portability feature is plainly a gain for such employees, not only in terms of actual benefits enjoyed, but also in removing inhibitions to changing jobs. Under my plan, when the employee shifts to a new job, that position would continue to provide the same good Short Term Paid Leave benefits. By contrast, many who leave University service today shift over to employment that provides benefits inferior to those available at the University.[40]

4. Unemployment

I have so far considered long term steady workers, whether or not they remain with one employer. Now let me turn to employees who experience gaps in their careers, thereby comparing the protection provided by Short Term Paid Leave with that now afforded by unemployment compensation.

Suppose first that a worker has a six-month bout of unemployment after twelve years of steady work, another six months off after a second twelve-year period of steady work, and so on. These might occur, for example, because the person was undergoing retraining for a new type of work, or because he or she was searching for a new job, or because a family crisis or other personal reason caused the employee temporarily to leave the work force. Regardless of the reason for the unemployment, the employee under the Short Term Paid Leave Plan would have a full reserve at the time of each break in service, so he or she could take the entire six-month period of unemployment on a fully paid basis, after the two-week waiting period.[41]

By contrast, under today's regular unemployment compensation programs the unemployed person typically at best gets only half pay (and

39. Under my plan he or she would receive a payout into his or her designated financial institution of any balance of unused earned leave held on the employer's books at the time of leaving employment.

40. Under my plan people who come into a new job with a substantial reserve will, in effect, have more vacation than many others at the new place of employment. I do not think that this will discourage employers from hiring those with built-up reserves. To the contrary, a full reserve would indicate a record of dependable work attendance.

41. An employee using his or her reserve for such bouts of unemployment would, of course, have fewer days available for vacation on return to work than he or she had before taking time out of the workforce. This parallels today's typical arrangements in which, as already noted, a new employee usually starts again at the bottom of a firm's vacation program regardless of how many years of service he or she had with a previous employer.

usually less) for up to six months (subject also to a waiting period, often one week). Moreover, unless the period of unemployment is triggered by a layoff or qualifying personal reasons, typically no unemployment compensation benefits are available at all.[42] Benefits are also generally denied under today's arrangements if the former employee is unavailable for work because, for example, he or she is back at school training for a new job or is taking care of some family need. When an employment break occurs because of the worker's choice, my plan, by contrast, maintains the person's living standard for a reasonable time, rather than throwing the worker into potentially precarious financial straits. This additional financial security should make employees far more able both to change career patterns and to attend to other important personal needs, thereby enhancing their lives significantly.

While these comparisons are quite favorable to Short Term Paid Leave, many people obviously are temporarily out of the work force more often than every twelve years. Yet my plan would adequately cover these workers' needs as well. Since an employee's reserve would be initially built up at the rate of fifteen days (three weeks) per year, he or she would be entitled to twelve weeks of fully paid breaks between jobs after every four years of work. And, since an employee could elect to draw down on his or her reserve at less than the maximum allowable rate, twelve weeks of fully paid leave could be stretched to twenty-four weeks of half paid leave—which is essentially equivalent to what laid off workers could, at best, expect today. In short, I am satisfied that most people whose unemployment bouts come no more frequently than every four years would be much better treated during that period of unemployment under Short Term Paid Leave as compared with current arrangements.

Even if a person is between jobs, or laid off a more-or-less regular job, for eight weeks every two years, he or she will still be well treated under the Short Term Paid Leave plan. After the two week waiting period, which could be covered by currently accrued earned leave days, the employee could turn to his or her reserve and there find six weeks of full pay available. This is a significant advantage for that substantial proportion of the insured unemployed who are out of work for eight weeks or less.[43] For them, the theoretical advantage of twenty-six weeks of benefits under the current unemployment compensation system is not important.

---

42. It should be noted, however, that retraining programs occasionally carry modest stipends, and some workers permanently laid off today receive a supplemental (often lump sum) payment on severance.

43. According to a study by the Congressional Budget Office, for example, the mean duration of unemployment benefits varied between 12.3 and 15.9 weeks during the years 1970-1982. CONGRESSIONAL BUDGET OFFICE, UNEMPLOYMENT INSURANCE: FINANCIAL CONDITION AND OPTIONS FOR CHANGE 22 (1983).

Let us consider next those people whose jobs carry with them, for example, annual four-week shut downs, during which periods they currently turn to unemployment compensation to maintain a regular flow of income. Although these funds may not be sufficient because unemployment compensation imposes a waiting period and only pays partial compensation, presumably such workers save for this time off. Short Term Paid Leave treats these annual periods for what they really are—paid vacation time that is required at the convenience of the employer. Regular income would flow to workers during such mandatory time off—the first two weeks out of current paid-leave accumulations, the remainder out of their reserves.

Other employees are out of the work force for very lengthy periods, for example, a year or more. The Short Term Paid Leave plan, like existing regular unemployment compensation arrangements, is not designed to handle the needs of these people. Rather, other long-term programs are needed.[44]

There are still other categories of the temporarily unemployed to consider. Some workers, because of the nature of their jobs, can expect to be regularly off work for rather more than the annual four week period considered above. There are, for example, certain seasonal workers who work six months in the canning industry and then have no work for the rest of the year. Others, such as certain construction workers, know that because of the climate or the long-term work situation in their area, they are usually going to work a short year. Even though these bouts of unemployment are hardly unexpected, these seasonal employees now draw heavily on the compensation system, in many cases year after year.[45] Some states have sought to restrict the access of seasonal employees to their systems. These states have had only limited success, in part because of the difficulty under the current arrangements of distinguishing by statute these claimants from those whose long layoffs are truly unanticipated.

Workers in these sorts of industries, in my view, are often able to

---

44. Under present arrangements workers sometimes obtain modest durational additions to unemployment compensation that carry them for nine months or a year. Typically these are triggered by unusually high rates of unemployment either within a state or nationally. For a description of the extended benefit programs, see *Duration of Benefits*, 1B Unempl. Ins. Rep. (CCH) ¶ 1935 (Mar. 11, 1986). Those programs could, of course, continue under the Short Term Paid Leave plan. But even they do not deal with the truly long-term unemployed, whose needs are now very poorly addressed in the United States—primarily through means-tested programs like food stamps. This problem requires reform of our long-term income maintenance programs, which, however, is not the subject of this Article.

45. For studies of and policy responses to this problem, see generally Maruizi, *Unemployment Insurance and Seasonal Industries*, in 2 NATIONAL COMM'N ON UNEMPLOYMENT COMPENSATION, UNEMPLOYMENT COMPENSATION: STUDIES AND RESEARCH (1980) and M. MURRAY, THE TREATMENT OF SEASONAL UNEMPLOYMENT UNDER UNEMPLOYMENT INSURANCE (1972).

take inappropriate, though perfectly legal, advantage of the current system.[46] After all, many of these jobs are reasonably well paying; and many holders of part-year jobs are not primary family breadwinners. Yet these jobs are being subsidized by the economy as a whole. That subsidy either gives the worker a windfall in the sense that his or her unemployment is hardly the result of the "risk" the system was centrally designed to protect against; or, alternatively, and perhaps even more likely, that subsidy permits employers to pay such workers less than their otherwise market wage because the available unemployment benefits are worth more than the benefits for which the enterprise pays. Under my plan, while these short-year workers would, of course, be entitled to the Short Term Paid Leave benefits they earn while working, they would have to make other arrangements to cover longer gaps without regular paychecks.[47]

A yet different category of the unemployed is illustrated by the person who will wind up with a reasonably stable attachment to the work force over the long haul, but who has an unstable or unlucky start, experiencing a disproportionate share of early unemployment. On a career-long basis this sort of worker could well self-insure his or her unemployment experience through the reserve feature of my plan. The problem, however, is not having cash—a sufficient reserve—at the outset. In order to deal with this sort of situation (and other similar ones), I have added a "borrowing" feature to the Short Term Paid Leave plan. The basic idea is that an employee may, under appropriate circumstances, take his or her own reserve account into the red, by borrowing from the employee's designated financial institution. So as to assure that the funds would be forthcoming, I would have the government be a guarantor of these loans.

I propose that the maximum loan be equal to what would be that worker's full reserve—that is, twenty-four weeks of full pay. So far as repayment goes, I would require a worker whose paid-leave reserve account is in the red to bring it back into the black at a rate of twenty days of earned days per year—that is, somewhat faster than the initial, fifteen days per year, reserve build-up rate. This would, in effect, mean that the worker who had borrowed would obtain one week less vacation

46. At present, the financing of unemployment compensation is done on the basis of a payroll tax, which is partially "experience" rated; that is, employers pay a higher tax rate the more benefits their employees receive. State maxima and minima bound the operation of experience rating, however, with the result that even if seasonal employers pay into the system at the maximum rate, their employees often draw out sums in excess of the amounts that their employers paid into the system. These employers are often termed "red ink" employers.

47. Employers of such workers might well have to increase their hourly compensation or else reorganize their workforces in a more efficient way. More seasonal workers who are primary family breadwinners might find supplementary off-season work. States could choose to enact special supplemental compensation programs deliberately aimed at these classes of workers.

a year until his or her reserve was into the black.[48]

Although this borrowing feature would take care of workers whose needs are timed such that they occur in advance of an adequate opportunity to save up, it is not intended to take care of the needs of all of the temporarily unemployed. Some workers who have sufficiently erratic employment will still be without benefits under the Short Term Paid Leave plan for periods of varying length. Many of these people, of course, are also without benefits under the current regime. For example, their unemployment is regularly considered to be their fault (for example, they are regularly fired for misconduct, refuse suitable work, or voluntarily quit their jobs). In those situations, of course, any failure of Short Term Paid Leave to provide protection is not a loss as compared with the present system.

There are some people now who recurrently lose their jobs because of bad luck (for example, their employer or industry suffers a downturn) or incompetence that does not amount to misconduct (or is not so argued by an employer), both of which are an employer's responsibility under the current arrangements. Some people in this group currently obtain unemployment compensation benefits that may be better than what they could expect to get under the Short Term Paid Leave plan. Others, however, do rather poorly under the present regime because they do not have enough so-called base period employment to qualify for benefits. Of those erratic employees who are served reasonably well by the current

---

48. A worker's loan from his or her reserve might be ultimately secured by that worker's social security retirement account, which could be charged were the reserve still in the red when the worker wanted to retire. Perhaps this would mean delaying the worker's ability to retire on social security.

Harder issues raised by this feature are whether there would be restrictions on when a worker could borrow from his or her reserve and what interest rate, if any, this loan would carry. It is beyond the scope of this Article to discuss these details. My instinct at present is to provide public support of the Short Term Paid Leave plan by having the government pay the interest due to the financial institution that loans the money. I also lean toward a rule that in cases of long-term, involuntarily unemployed people, the government itself would repay the loan, perhaps on the basis of a month's repayment for every six the person remains unemployed after the first six.

Although these subsidies might create demands to regulate who would be eligible to borrow, I would oppose such individual restrictions as contrary to the principles of the Short Term Paid Leave plan. On the other hand, it might be appropriate for a person under age 25, for example, to be barred from borrowing from his or her reserve account unless he or she has logged at least, for example, two years of substantial employment during the prior three years. The general idea here is to discourage the use of the loan feature by those who are more likely to be immature borrowers if they have not had a significant recent history of regular work.

A further question would be to what extent a person could borrow if he or she had something in his or her reserve account at the start of the bout of unemployment in question. Plainly, I would allow someone with 10 weeks in his or her reserve to borrow 14 more weeks, if necessary, once those 10 had been used up. The issue rather is whether that employee with a full reserve could go 24 weeks in the red, thereby extending his or her paid unemployment period to a maximum of 48 weeks. Although there are arguments on both sides, I would allow such a worker to borrow up to the full 24 weeks.

system, some may be abusers of the system (such as those who arrange to be fired for the purpose of collecting unemployment compensation or who secretly work for cash while drawing unemployment). The moral claim of these sorts of people to unemployment benefits is rarely stronger than that of those who have never worked but now say they would like to, and for whom the current system provides nothing.

Yet, in the end, I concede that there must be some victims of recurrent bad luck, even if relatively few in number, whose replacement income needs, though satisfied by today's unemployment benefits, could not be well met by the Short Term Paid Leave plan. Unless I badly underestimate the number of people in this situation, however, I conclude that the benefit of my proposal would be worth the cost of harsher treatment to these innocent victims. Moreover, so as to minimize the effects of this loss, I would favor giving such people first priority in obtaining help from the employment service. If they truly are willing workers who have had a run of bad luck, they should be relatively easy to place.

Besides, the great bulk of those employees who now have jobs with good benefits will rarely find themselves claiming unemployment compensation at all. At the University of California, for example, most employees leave their jobs by quitting voluntarily.[49] Finally, even if Short Term Paid Leave would provide less unemployment compensation protection for some deserving people than does today's scheme, the shift to my plan might improve their benefits in other areas. On that basis, even these hard luck workers may well be considerably better served by the Short Term Paid Leave plan than by the current system.

By this point I hope it has become reasonably clear that concerns about (1) work disincentives created by today's unemployment compensation system, (2) whether people today are secretly working while drawing unemployment compensation benefits, and (3) whether unemployed claimants are today engaging in bona fide work searches, would largely disappear under my plan. The Short Term Paid Leave plan would provide considerable incentives for people to try to get back to work since they would be using up their own resources while out of work. At the same time, since claimants would have earned the money they draw from the plan, the public would feel quite differently about the claimants' right to draw upon it as they please.

5. Disability

Employees who are out of work for a few days each year because of sickness would, under my plan, remain in full-pay status by using up

49. Telephone interview with Betty-Lou Harmon, *supra* note 21.

earned paid-leave days. Although this would be a gain for those many workers who do not now have sick leave benefits, others, such as those who work for the University, currently remain in full-pay status so long as they have sick leave available. Under my plan, unlike the current University plan, using up a day of earned paid leave when ill reduces available vacation days. Still, people with an average number of sick days would nonetheless have generous vacation leave under my plan, even as compared with the University's relatively liberal vacation benefits.

Moreover, the merger of vacation and sickness leave means that employees who stay healthy are rewarded with more vacation.[50] By itself, this is a desirable incentive and one which a number of employers are already embracing, albeit often in a diminished way, such as allowing workers to trade two unused sick leave days for one extra vacation day.[51]

To the extent that there are sick-leave abusers in an enterprise today, those employees would have a new clear choice under my plan. They could either take those days off as before, probably on an ad hoc one-by-one basis, or take them on a planned basis, probably in a block, but not both. This choice may well lead to less ad hoc absenteeism with workers preferring to have their available holidays in longer periods. Also, workers might be more inclined to give advance notice of intended days off, rather than just calling in sick that morning. Both of these changes would provide important scheduling and morale benefits to employers. To be sure, there is some chance under my plan that some employees would choose to come in to work when they are not feeling up to par. Given the overall generosity of the plan, however, this seems fairly unlikely.

Of course, most people do not have a stable pattern of three or four days of illness per year. Yet, if they average three or four days per year over their work career, the Short Term Paid Leave plan allows them, in effect, to self-insure with ease. On top of that, the reserve portion of the Short Term Paid Leave account is deliberately designed for the occasional longish bout of disability that many people suffer. Moreover, as in my discussion of the unemployed, someone who unluckily has a longish bout of disability near the start of his or her career (including, for exam-

50. My plan also rewards with extra later vacation those employees who are temporarily disabled but who make special efforts to recover promptly. Current programs, by contrast, try to discourage malingering by both medical oversight of the employee's condition and less than full replacement of wages.

51. Similarly, some companies provide a core package of benefits that is supplemented by earned "flexible credits" which employees discretionarily apportion among health-insurance plans, disability income, life insurance, vacations, and so forth. *See, e.g.*, CONFERENCE BOARD, REP. NO. 831, FLEXIBLE EMPLOYEE BENEFIT PLANS: COMPANIES' EXPERIENCE (1983). As noted above, a few employers have already merged sick leave and vacation leave, treating them as a single paid time-off benefit. *See supra* text accompanying notes 19-20.

ple, those novices who are injured at work when they first begin their jobs) would be able to deal with that timing problem through the borrowing feature of my plan. In these respects, my plan broadly parallels the University's current package of protection for work and non-work disabilities (assuming that the employee carries the nonindustrial disability supplement) when combined with the University's policy of permitting sick leave accumulation.

To be sure, my plan is not intended to deal with other than the temporary needs of the long-term disabled any more than it provides for the needs of the long-term unemployed.[52] On the other hand, as discussed above,[53] even employees with several longish bouts of temporary disability would fare well under my plan. And, again based on my previous discussion of the unemployed, it should be evident, for example, that with a very modest amount of planning and saving, women could easily arrange to have eight weeks of fully paid pregnancy leave every few years and still have good vacation leaves in between.[54]

My main concern about how Short Term Paid Leave would treat the disabled parallels the concern I raised about an innocent employee who is recurrently unemployed.[55] Here, one should think about the person who regularly has to take time off work because of a chronic health problem. As before, I am not especially troubled by what would happen to those people in this group who are continually off work because of health problems caused by their own fault.[56] Those who are chronically ill or recurrently injured because of bad luck present a more troubling case, of course. Nonetheless, my concerns are at least diminished since the general outcome for these people too would not be a loss of income. Rather, they would have to use up their paid leave while sick and not have earned paid-leave days left for genuine holidays. Moreover, the many people in this state of health who hold jobs today that carry with them no temporary disability protection for causes unrelated to work would be considerably better off under my plan. Finally, assuming chronically sick people are not likely to have accumulated sick leave, even at a place with good benefits like the University, anyone who regularly has to be out of work more than a day a month for health reasons already must dip into vacation leave in order to remain in full-pay status.

---

52. I nonetheless envision (as I did with the long-term unemployed) that the government would slowly repay one's loan from his or her Short Term Paid Leave account when a worker is out with an extended disability. *See supra* note 48.

53. *See supra* text accompanying note 41.

54. *See supra* text accompanying note 43.

55. *See supra* text following note 48.

56. *Id.*

6. *Combinations*

On the bright side, by pooling a number of risks as my plan does, many people will be able, over their work careers, to self-insure their income replacement needs, whereas they could not do so if separate funds were earmarked for each specific contingency. For example, someone with an unusual disability experience would be better off having access to funding that would otherwise be allocated to unemployment protection that this person does not need.

On the darker side, however, those few people who unluckily combine unusual amounts of both unemployment and disability would be least able to maintain a continuous flow of income under my plan. Yet again it must not be forgotten that many of the people in these circumstances, probably a large portion of them, do not have career-long good benefit arrangements today either, thus once more minimizing the potential social costs of my plan.

CONCLUSION

The extended discussion presented in Part II of hypothetical workers and their various non-work experiences illustrates how the Short Term Paid Leave plan would function and why it ought to be a very attractive benefit scheme for nearly all employees regardless of their current benefit packages.

How should employers react to my proposal? Assuming employees are happier with my plan as compared to current arrangements, resulting improvements in job performance could well be the biggest gain for employers. Additional employer benefits would include administrative savings, a reduced need to police workers and to pry into their private lives, less conflict with employees over whether they qualify for certain benefits, enhanced workforce morale as employee perception of abuse by fellow workers declines, and incentives for employees to plan and announce proposed periods off work. And while the portability of the plan's benefits would make it easier for employees to leave their jobs, it would at the same time be easier to attract employees from other jobs.

Employers would, of course, be concerned about costs—especially those employers who do not provide good benefits now. Nonetheless, an appropriate phasing-in of my plan, combined with more research on who really pays for employee benefits, ought to reduce considerably fears and objections on this ground.

To be sure, in some employment sectors, my plan might lead to lowered pay (or slower raises) and more time off for some workers and, at the same time, to new jobs for other workers. Retail clerks and textile workers with poor benefits at present are possible candidates here. More

precisely, by providing existing employees with more paid time off the introduction of Short Term Paid Leave ought to force employers to expand their work force in order to maintain their current level of productive labor input. At the same time, because they would be providing better benefits, these employers ought to be able to pay lower base hourly wages. Although the plan might initially burden some employers, it could achieve a real gain in these times of continued high unemployment.[57]

Assuming the Short Term Paid Leave plan is a promising idea, how might it be implemented? The best strategy is probably to push for some substantial experimentation. In order to try out all of the features I propose, it would certainly help to have special exceptions from the federal government, probably Congress, with respect to existing unemployment compensation system rules. Armed with such exceptions, any state could, I believe, authorize or impose experimentation by or on some portion of its working population.[58] Even without federal action, states could probably authorize employers to try out the Short Term Paid Leave plan so long as there were provisos to the effect that those who fully use up its benefits are held harmless with respect to existing unemployment compensation benefits. Even individual employers might try to experiment with my plan through contractual arrangements with workers to the effect that the workers agree not to claim either workers' compensation or unemployment compensation benefits so long as they have funds in their earned paid-leave accounts.

But it is probably too early to focus on implementation issues. What is needed first is wider discussion of the Short Term Paid Leave proposal. Were the basic idea of Short Term Paid Leave to catch on, I have little doubt that we could identify promising experiments to try.

---

57. There are, in addition, some broad questions my plan raises about potential macroeconomic impacts on private savings and productivity. If enough people would become sufficiently interested in my plan for those matters to be investigated seriously by economists, I would be very pleased. But so far, I do not see serious problems lurking there.

58. There is a possibly troubling question here about whether ERISA preempts state experimentation, something I do not believe ERISA drafters ever intended despite ambiguous language in the statute. *See* Kilberg & Inman, *Preemption of State Laws Relating to Employee Benefit Plans: An Analysis of ERISA Section 514*, 62 TEX. L. REV. 1313 (1984); Galante, *State Benefits Law Not Pre-Empted by ERISA*, Nat'l Law J., Sept. 23, 1985, at 5, col. 1 (regarding the impact of ERISA on state laws regulating vacation rights). I have chosen to ignore that question here.